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FROM THE BEQUEST OF
CHARLES SUMNER
CLASS OF 1830

Senator from Massachusetts

FOR BOOKS RELATING TO
POLITICS AND FINE ARTS

TESTIMONIALS.

On the minds of the comparatively few who have seen the work on the Treasury Department, with the commendations at the end of the second volume, by two successive Presidents and Vice Presidents of the United States, justices of the Supreme Court, members of the Senate and of the House of Representatives, five successive Secretaries of the Treasury, heads of Bureaux in the Treasury, War, and Navy Departments, and the favorable report of the Joint Library Committee of the two Houses of Congress, &c., a considerable degree of confidence has been impressed, in advance, in behalf of the further efforts made and making to extend the plan of that work to all the other Departments of the Government; therefore little or nothing more need be said to elicit their trust in this and other fruitings of it. But to those into whose hands this volume may casually fall, who have not seen the work on the Treasury, two or three of the testimonials in behalf of that work, and yet a few of the flattering incentives to the continued exertion of this laborious enterprise, may not be out of place here, to account, in some degree, for the kindness with which *this volume on the Pension Laws, &c.*, has already been received, in the short space of time since it was issued from the press. The late Judge Woodbury, who had such ample experience in the legislative, executive, and judicial departments of the Government—twice a Senator of the United States, for many years Secretary of the Navy, and for a longer time Secretary of the Treasury, and late a distinguished member of the Supreme Court of the United States, spoke of the work on the Treasury as follows:

“WASHINGTON, February 21, 1848.

“DEAR SIR: I have been much obliged by a copy of your Treatise on the Treasury Department, and much interested in its contents. Without some such compilation, the records and decisions of the Department, and the divisions of business among its bureaux, are almost a sealed book. These matters, as exhibited in your work, will be useful to all the officers connected with the Department; and much more so to *claimants*, and to legislators in Congress. I hope it may meet with the patronage and success it deserves.

“Respectfully,

“LEVI WOODBURY.”

This letter is here selected on account of its brevity and force, as a fair illustration of the spirit of the rest, to which we will only add that of the late Attorney General of the United States on the uses of the same work:

“WASHINGTON, January 8, 1851.

“DEAR SIR: I think that upon a former occasion I stated to you the high estimate I put upon your work on the Treasury Department.

“It gives me pleasure to repeat it, and to add, that subsequent and frequent use of the work whilst I was Attorney General served yet more to confirm my high opinion of it. In very many instances I found it of great service as a book of reference; and, in revenue cases, most invaluable.

“When your entire plan shall be completed, I cannot doubt that the whole will commend itself to the favor of professional gentlemen, as well as to all who are, officially or otherwise, immediately interested in the practical administration of the Government; and then, I trust, your ability, labor, and sacrifices in its preparation will meet with the amplest reward.

“With much regard, your obedient servant,

“Dr. R. MARO, Washington.

REVERDY JOHNSON.”

TESTIMONIALS.

The proposition for extending the plan of the work on the Treasury, to the other Departments of the Government, met the sanction of the late President Taylor and his Cabinet, by the following endorsement upon it:

"The facilities above requested will be afforded by the officers in our respective Departments.

"JOHN M. CLAYTON,	J. COLLAMER,
"T. EWING,	REVERDY JOHNSON,
"GEO. W. CRAWFORD,	WM. BALLARD PRESTON.
"Approved: Z. TAYLOR."	

The following are very partial evidences, amongst numerous other testimonials of eminent statesmen and jurists in behalf of the prosecution of the sequel to the work on the Treasury:

"WASHINGTON, December 6, 1849.

"DEAR SIR: I think favorably of the extension of your compilation to all the Departments of the Government. It will facilitate inquiries in these as it does now in the Treasury Department—and will prove likely to aid both those doing business in all of them, and the officers themselves.

Respectfully,

"LEVI WOODBURY.

"R. MAYO, Esq."

"WASHINGTON, December 10, 1849.

"MY DEAR SIR: Your distinguished success in developing the principles and the practice of the Treasury Department has very naturally excited a desire to have a like exposition in respect to the other Departments of the Government.

"I trust you will meet with sufficient encouragement, to induce you to persevere in this very useful enterprise—from which the country cannot but be largely benefitted.

"I am, very truly, your friend and obedient servant,

"WILLIE P. MANGUM.

"Dr. MAYO, Washington."

"December 14, 1849.

"I fully concur in the views above expressed by Senators Mangum, Cass, Mason, and Hunter, as to the great utility of the proposed work, for the successful execution of which you are so well fitted. The volumes you have already published in regard to the Treasury, were compiled by you chiefly during the last four years, and proved to be eminently useful, not only to the Secretary of the Treasury, the heads of Bureaux and clerks, but also to that great number of persons transacting business with the Department. The similar work you now propose to prepare in regard to all the other Departments, is much wanted, and would be of very great public utility.

"Dr. MAYO.

R. J. WALKER."

To the above might be added the favorable expression, in the same regard, of more than sixty members of the Senate and House of Representatives, of the Supreme Court, and prominent citizens of Washington, of the bar, the bench, and present and former mayors of the city.

But finding a pressing demand pervading the community, for the "Laws, Opinions, Decisions, Forms and Regulations, on Pensions and Bounty Lands," the senior editor was induced, *temporarily*, to suspend his labors in regard to the other Departments, to undertake the compilation now presented to the public. And in order to give this branch of his enterprise every possible dispatch, he requested the assistance of the young gentleman whose name is associated with his in the title and copyright.

In the brief space of time which has transpired since this volume on the Pension and Bounty Land Laws has been before the public, the following commendatory letters have

TESTIMONIALS.

been received, even in the excited as well as busy times that afford to very few the leisure moment to look at a new publication:

Letter from the President of the United States.

“WASHINGTON, May 27, 1852.

“MY DEAR SIR: Accept my thanks for a copy of ‘*the Pension Laws from 1776 to 1852*,’ which you did me the honor to send me this morning. I have barely had time to glance at its contents, but knowing your habit of thorough investigation and accurate analysis, and perfect method of order and arrangement, I cannot doubt it will be a very useful work; and I hope it may prove as profitable to the author as I presume it will be beneficial to the public.

“I am, your obedient servant,

“DR. MAYO.

MILLARD FILLMORE.”

Letter from the Secretary of the Interior.

“WASHINGTON, June 3, 1852.

“SIR: I beg you to accept my thanks for the volume of *Pension Laws, &c.*, which you have been kind enough to send me. Such a work was very much needed, and, from the partial examination which I have been able to give it, as well as from your acknowledged industry, ability, and research, I have no doubt that it is admirably executed. Under that conviction, I have directed the purchase of a number of copies for the use of the Pension Office and its various agents.

“Very respectfully, your obedient servant,

“DR. R. MAYO.

ALEX. H. H. STUART.”

Letter from the Commissioner of Pensions.

“PENSION OFFICE, June 4, 1852.

“DEAR SIR: I am indebted to you for a copy of the ‘*Army and Navy Pension Laws, and Bounty Land Laws*,’ in anticipation of the regular issue from the press, and I regret that my constant engagements have, as yet, disabled me from more than a partial examination of its contents.

“I am satisfied, however, that it will be a highly useful publication to many branches of the Government, as well as to the public at large, and to this office it will be invaluable. Wishing you every success in its circulation and patronage, I remain, very respectfully, your obedient servant.

“DR. ROBERT MAYO.

J. E. HEATH, Commissioner.”

Letter from the Secretary of the Navy.

“NAVY DEPARTMENT, June 8, 1852.

“SIR: Your note of the 1st instant, accompanied by a copy of your compilation of the *Pension Laws*, with the decisions, rules and regulations relative to the execution of these laws, has been received. So far as I have been able to examine the volume, and the copious index appended to it, I think it a valuable and complete work, which supplies a desideratum in the prosecution of claims and the administration of the pension system.

I am, very respectfully, your obedient servant,

“WILL. A. GRAHAM.

“DR. R. MAYO, Washington, D. C.”

Letter from the Attorney General.

“WASHINGTON, June 22, 1852.

“MESSRS. MAYO & MOULTON:

“Accept my acknowledgments for the copy you have been pleased to present to me, of your lately published volume, entitled ‘*Pension Laws from 1776 to 1852*.’ My opportunities have enabled me to make but a slight examination of it, but it has been sufficient to satisfy me that it will prove to be a very useful book; and I hope that it may produce for its authors an ample compensation for their care, labor, and ability, in its preparation.

Very respectfully, yours, &c.

“J. J. CRITTENDEN.”

TESTIMONIALS.

Letter from the Secretary of War.

"WASHINGTON, June 23, 1852.

"SIR: I have received the copy of the 'Pension Laws,' &c., which you were kind enough to send me some days since. It has not, yet, been in my power to give it a very close examination, but, I have no doubt, it will prove a valuable aid to all persons having any business relating to pensions, as well as to the Government and its agents.

"Very respectfully, your obedient servant,

"C. M. CONRAD.

"Dr. ROBERT MAYO, Washington."

Letter from the Postmaster General.

"POST OFFICE DEPARTMENT, July 3, 1852.

"SIR: Please accept my thanks for the volume of 'Pension Laws,' &c. which you were kind enough to send me. I have not been able to examine it with care, but in overlooking its contents, I am led to the conclusion that the work must be of great value to those having business to transact at the Pension Office.

"With great respect, your most obedient servant,

"N. K. HALL,
Postmaster General."

"Dr. R. MAYO, Washington, D. C.

Letter from the Chairman of the Committee on Pensions of the Senate.

"SENATE CHAMBER, June 11, 1852.

"DEAR SIR: Your compilation of Army and Navy Pension Laws was much needed, not only by the Representatives in Congress, and all agents having any business to transact for pensioners and applicants for pensions, but even, I believe, by the inmates of the Pension Office; for such have been the number and variety of pension laws that often much time was consumed in searching, among many indexes and volumes, for those laws that were wanted to solve questions arising in the examination of pension cases. Your book will save this loss of time and much labor. I heartily thank you for the volume you sent me, and hope the enterprise and industry which produced it will be well rewarded.

"It gives me pleasure to add that the members of the Committee on Pensions think highly of your book, and will join in recommending its purchase.

"Respectfully, your obedient servant,

"GEO. W. JONES,

"Chairman of the Committee on Pensions.

"ROBT. MAYO, M. D., Washington, D. C."

From Members of the Washington Bar.

"Dr. R. MAYO, and F. MOULTON, Esq.—

"GENTLEMEN: Accept my sincere thanks for a copy of your valuable compendium of the Pension and Bounty Land Laws, which you have been so kind as to send me.

"Such a compilation executed with the care and industry which characterize this work, and illustrated by the introduction and appendices, cannot but prove invaluable to the Executive and Legislative Departments, as furnishing them in a well arranged form with the information so essential to the correct discharge of a large amount of the business upon which they are called to act. To the professional man, the agent for claims, and claimants themselves, it is not less important.

"Very respectfully, yours, &c.

"July 5, 1852.

RICH'D. S. COXE."

We entirely concur with Mr. Coxe in the estimate which he has put upon the work of Dr. Mayo and Mr. Moulton.

JOS. H. BRADLEY,
P. R. FENDALL,

J. M. CARLISLE,
WALTER LENOX,
RICHARD WALLACH.

ARMY AND NAVY
PENSION LAWS,
AND
BOUNTY LAND LAWS
OF THE
UNITED STATES,
INCLUDING SUNDRY
RESOLUTIONS OF CONGRESS,
FROM
1776 TO 1852:
EXECUTED AT THE DEPARTMENT OF THE INTERIOR.
WITH AN
APPENDIX,
CONTAINING THE OPINIONS OF ATTORNEYS GENERAL OF THE
UNITED STATES, WITH THE DECISIONS, RULES, AND
REGULATIONS, ADOPTED BY DIFFERENT SEC-
RETARIES, RELATIVE TO THE EXE-
CUTION OF THOSE LAWS.

COMPILED BY ROBERT MAYO, M. D.,
AND
FERDINAND MOULTON, COUNSELLOR AT LAW.

WASHINGTON:
PRINTED BY JNO. T. TOWERS.
1852.

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1871, Aug. 5.

Gift of
Hon. Thos. Sumner,
of Boston.
(Ms. A. 6. 18 30.)



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1871
Aug. 5

INTRODUCTION.

It is no less important to understand the general policy of legislation on pensions and land bounties, than it is necessary to be acquainted with the particular provisions of every law relating to those equitable and munificent institutions, in order to execute the latter with a due regard to the former; and to aid in maintaining a consistency with that policy, in all instances of special legislation, for carrying the same into practice. Otherwise, contrarieties would be apt to occur, both in the legislation and in the execution of the laws, that might give rise to discontents among those intended to be benefited by that policy, and blur the beautiful design of the system itself. Nor is it scarcely practicable for the most astute to discover all the beautiful features of the system, or detect the blemishes that insinuate themselves, unobserved, into the laws, as well as the executive practice in executing their provisions. It is sanguinely believed that all difficulty in these two important respects might be obviated by a general survey of that policy, whilst inspecting and executing the specific provisions of each of those laws, where any dubious phraseology may occur. But neither can the spirit of this general policy, nor the details of special legislation, be duly appreciated, except by collating and bringing together all those enactments, with a classified analysis of them all, and a particular examination of the provisions of each. To obtain these necessary lights to consistent legislation and an accurate execution of the laws, every one who has turned his attention to the subject knows that scarcely the first step has yet been taken with any adequate approach to satisfaction. This desirable object struck the attention of the Hon. Lewis Cass, then Secretary of War, when he ordered a compilation of the pension laws in 1833, as then executed at the War Department. But a material deficiency existed in that compilation, owing to the fact that the navy pension and the bounty land laws were not embraced in it—the former being then executed at the Navy Department, and the latter in a separate Bureau of the War Department. These exceptions to the homogeneous character of the pension system were pointed out in that compilation as demanding correction; and they were corrected, at intervals, by legal provisions transferring those duties to the Pension Office. That the reader may judge how near an approach was then made, under all disadvantages, to exhibit the general policy of the government in this regard, the Introduction to that edition of the pension laws is here subjoined, with appropriate interlineations in brackets, as follows:—

“Besides the ordinary pay, clothing, and rations, prescribed by law as a compensation for naval and military services, on the principle of wages or monthly stipend, the gratitude of Government has dictated the institution of other remunerations for the casualties of wounds, disabilities, and indigence, by way of pension: and in many instances it has superadded, as an encouragement for *extra* protraction of service, a continuance of pay or half pay, for limited periods, or for life: together with an inheritance of half pay for a term of years to the widows and orphans of those who are killed or die of wounds received in the service: which provisions are also viewed in the light of pensions.

“Legislative provisions for pensions are sometimes made by promissory resolves, in anticipation of the contingencies on which they are based, by way of encouraging the enterprise of enlistments, continued service, and personal daring. It is remarkable, that in the next month (26th August, 1776) after the declaration of independence, the old Con-

gress passed resolutions promising pensions to soldiers and seamen who might be disabled in the war. Shortly after that date, on the 15th May, 1778, half pay was promised for seven years after the conclusion of the war, to all commissioned officers who should continue in the army to the end of the war; and on the 25th September of the same year, the benefits of the resolutions of the 26th August, 1776, were made to reach back to all cases of disability from the commencement of hostilities on the 19th April, 1775. Thus, at this early period of the first military operations in the work of independence, was the magnanimous, politic, just, and grateful system of pensions commenced by anticipation; and, lest any oversight might have occurred, took a retroaction upon the few months that had elapsed; and from that time to the present day, our national legislature has gone on, step by step, to complete the details of this system, to meet all the demands of justice, gratitude, and humanity, towards our revolutionary worthies who have rendered military and naval services, and come within the conditions of those laws.* And finally, on the 2d March, 1833, the administration of this system was raised to the dignity of an independent bureau, under the management of a "Commissioner of Pensions," instituted by the act of that date, making appropriations for the "civil and diplomatic expenses of the Government for the year 1833," which says (sec. 1, page 36 of the pamphlet of laws) "a Commissioner of Pensions shall be appointed by the President and the Senate, who shall receive a salary of two thousand five hundred dollars, which is hereby appropriated. He shall execute, under the direction of the Secretary of War, such duties in relation to the various pension laws as may be prescribed by the President of the United States; and he shall also have the privilege of franking," &c. [The office of Commissioner of Pensions has been continued ever since by biennial enactments until the last continuance, which provides that it shall continue until further legislation on the subject—thereby relieving the necessity of further continuance. See act, p. 215.]

"At this stage of mature legislative enactments upon this subject, the Secretary of War has thought proper to charge an humble individual in the Pension Office, with the task of compiling this system of laws, together with the opinions of Attorneys General, and the Rules and Regulations adopted by Secretaries of War, relative to the execution of those laws; and to digest an analytical index of the whole for publication. In executing this charge, some latitude has been taken by the compiler, in introducing, in the order of its date, the pension law of the 15th May, 1828, which is executed at the Treasury Department. [The execution of official duties under this act was shortly afterwards transferred to the Pension Office.] It was founded on the resolution of the 21st October, 1780, which is an important pillar of this system of laws; and the recent act of the 7th June, 1832, is an enlargement or a supplement to the said act of 1828; whereby the three necessarily throw a reciprocal light on each other. He has also introduced in the Appendix Mr. Wirt's opinion, "whether it was the intention of Congress to incorporate negroes and people of color with the army," as applicable to their claims for pensions, though that opinion was called for in relation to their claims for "land bounty." [This opinion will now be found in the order of its date.] He has also recapitulated, in the Appendix, (marked B, C, and D,) an abstract of the Rules and Regulations established by law, for the purpose of exhibiting the legal regulations in a condensed form, in juxtaposition with the opinions and regulations of the Executive, that it may be the more easily seen how they quadrate with, supply the defects of, and support, each other. Furthermore, much pains has been taken to supply such omissions as were discovered in the course of publication, by introducing them, partly in the Appendix, marked A, and partly in an Addenda. [The omissions here alluded to, have been incorporated, in the order of their dates, in this extended edition.]

"To dignify the pension laws of our country, with a place in the nomenclature of systems, may seem ridiculous to those who view these laws in a detached sense, or in the order of their dates only. But he who will take a survey of the prominent enactments, connected with the minute details growing out of each, as they are developed, though they were commenced and progressed under the dictates of justice and gratitude, without any view to system building, will nevertheless discover and admire therein, that beautiful symmetry and order of parts, which constitute system in any branch of science or law, natural or civil. To exhibit the same in a perspicuous manner, is attempted in the subjoined Analytical Index; to which the subsequent Tabular Summary may be regarded as a key. The multiplicity of private acts for the relief of individuals included in this

* It may be satisfactory to advert to two exceptions, which break the continuity and comprehensiveness of this system, viz: the execution of the navy pension laws as a distinct system at the Navy Department since the revolution, and the act of the 15th May, 1828, executed at the Treasury Department.

[It is scarcely necessary to observe that the navy pension laws and the act of the 15th May, 1828, have been since transferred to the Pension Office.]

Compilation, are not embraced in the Analysis, because they are cases absolute, and do not form necessary links in the series. They will be found in the Index, at the end of the volume."

When that edition of the pension laws was exhausted, a resolution of the House of Representatives, passed on the 9th of October, 1837, called on the Secretary of War for a compilation of the pension laws "now in force"—a proposition which, in all probability, originated in the Pension Office. However that may be, it fell far short of the design that the occasion seemed to call for, and still farther short of what was desirable in its execution—performed by the then Commissioner of Pensions, as may be seen by his report of "the pension laws now in force," addressed to the Hon. Joel R. Poinsett, then Secretary of War, and shortly afterwards transmitted by him to the House of Representatives, on the 18th of January, 1838. Several editions of that compilation were afterwards printed for the use of the House. A brief review of its general character, is here subjoined; but it will be difficult to comprehend all the particulars of this review, without a copy of that report, in hand, for reference during the perusal of it, viz:

Review of the pension laws now in force, compiled by James L. Edwards, Commissioner of Pensions.

On the 18th January, 1838, the honorable Joel R. Poinsett, then Secretary of War, reported to the House of Representatives a copy of this compilation, prepared by Mr. Edwards, as comprising the information called for by a resolution of the House, passed on the 9th October, 1837, pending the extra session convoked by Mr. Van Buren. On the next day, the 19th January, 1838, the document was read in the House, laid on the table and ordered to be printed, for the use of the members, without even a reference of it to a committee to examine its accuracy.

With all its imperfections on its head, it has already gone through two large editions of about 10,000 copies for the use of members of Congress; the second edition being a mere reprint of the first, without even an attempt to correct the obvious typographical or clerical errors it contained.

But it is in regard to matters of graver import, which characterize this production, that I propose here to make a few remarks; from a little attention to which, it cannot fail to be perceived that, while this compilation is pompously sent forth by official report to the House of Representatives, as an authentic volume of "the Pension Laws now in force," without the scrutiny of that body, it is replete with the most extraordinary specimens of editorial ignorance and presumption that are any where else to be met with—being no better than an arbitrary mutilation, confusion, and perversion of law, in a variety of ways; the chief examples of which are referred to under the following descriptive heads, viz:

1. OF CHAPTERS.—The first and most remarkable freak of the editor's presumption, is to make an arbitrary classification of the series of extracts from the laws, under the false title of so many chapters of laws, as if those extracts were whole and unbroken subjects; while, in fact, said classification corresponds with no division or classification existing in the statutes; nor is it pretended that such a classification exists any where, as to the fractional parts of any subject; and yet the editor has made no explanation or apology for taking such a freedom with the existing forms of law.—(See the work from beginning to end.)

2. OF SECTIONS.—On the other hand, he has as arbitrarily effaced and abolished the designation of sections as adopted in legislation for the sake of general perspicuity and a convenient reference to the details of a law.—(See also the work from beginning to end.)

3. OF ARTIFICIAL SUBDIVISIONS.—He has arbitrarily separated or subdivided, into *sun-dry chapters*, certain extracts from one and the same law, though he will not allow any of them to retain their legitimate minor divisions into sections.—(See his chapters 9 and 10, which are extracts, in part, from the act of April 25, 1808; also see chapters 26 and 27, which are extracts from the act of February 4, 1822; also see chapters 47, 48, and 49, which, all three, are extracts from the act of July 4, 1836.)

4. OF ARTIFICIAL COMBINATIONS.—On the other hand he has, in two remarkable instances, combined other extracts from different laws, not only in one and the same chapter, but has even merged them into one continuous indiscriminate paragraph.—(See his chapter 9, which is made up of parts of the acts of April 10, 1806, and April 25, 1808; the 6th section of the former being interpolated into the 3d section of the latter, without explanation or reference, and all merged in one paragraph. (Query: Is this an in-

tentional fraud to perpetuate the class of pensioners therein described?—the said act having expired by limitation in 1834.) See also his chapter 10, entitled by him “rules of evidence relative to invalid pensioners,” which is made up by materials from various sources. Whether the regulations there given have been established by the Secretary of War, by the President, or by the authority of the act of April 10, 1806, and April 25, 1808, he does not say. But, with the other extracts and interpolations which he has mixed up with those he derives from these acts, he makes up his chapter 10, of “the pensions laws now in force,” while the rules and regulations adopted by the executive department belong to another part of his work. Nevertheless, the act of the 10th April, 1806, though thus trespassed upon in chapters 9 and 10, is nowhere quoted or referred to by the editor as an act now in force. But though that act must have expired, in other respects, by limitation in 1832, may not its *rules of evidence*, relative to invalid pensioners, have been rendered durable with the act of April 25, 1808, which seems to have adopted them, by *reference* to them, for use in connexion with the execution of that act, without *incorporating* them in it. And is it this reference to them by that act, which is the editor’s authority for embracing them (in a garbled form as they are in his chapter 10,) under a reference to the act of April 25, 1808, without referring to the act of 10th April, 1806; in which, only, are they to be found written out? If so, then he has been very economical—nay, parsimonious of intelligible explanations, and as profuse of bewilderment on the other hand, with arbitrary admixtures, modifications, and prunings of them, so that they are hardly to be recognised by the side of their originals. But this, however it may be a good ground for the continuance of those rules, cannot have been the editor’s idea at the time he was dovetailing this 10th chapter, as the passage quoted from the act of the 25th April, 1808, is divided off from the garbled rules taken from the act of the 10th April, 1806, without quotation, first by an interpolation of the editor’s dictation, and then by a quotation from the act of the 18th April, 1814. So that if he claims any merit for considering any part of this act of the 10th April, 1806, as being now in force, it must be an after-thought, or he should have referred to it when he introduced the 6th section of it into his chapter 9; and likewise have explained the use he made of its rules of evidence in chapter 10, &c., &c.

5. OF OMISSIONS.—His extracts are sometimes mutilated by omissions that impair their meaning. For example, in his chapter 1, a proviso is omitted at the end of it, which could not have become obsolete, or have been repealed, as it forms an essential part of the section which it qualifies or restricts, and is of the same purport with the provisos retained at the end of his chapter 3, and elsewhere. The extract which forms his chapter 2, is so brief that the *clause* identifying the act to which it *alludes* for like compensation in like cases of disability, is omitted. There are sundry omissions in his chapter 10, particularly in that part which relates to rules of evidence concerning invalid pensions, taken from the act of the 10th April, 1806, which would be too tedious to particularize here. Also his practice of clipping and razeing, embarrasses the phraseology at the beginning of each of his chapters 30, 32, and 37, as well as many others.

6. OF INTERPOLATIONS.—On the other hand, his extracts are also sometimes falsified by interpolations, or substitutions of expression, that distort and pervert their meaning. For example, he has substituted titles, *to all his chapters*, for the original titles, as if they formed a part, or prefix, of the laws. In his chapter 1, he has substituted *eight* instead of *five* dollars per month, as the rate of compensation allowed to non-commissioned officers, musicians, and privates; and he has done the same thing in his chapter 2. If these substitutions of rates of pay to these grades of service, were intended to make them correspond with the subsequent increase of their pensions by the act of the 24th of April, 1816, why was not the monthly half pay of commissioned officers made to correspond with the like increase of their pension by the same act? and why did he not make the *five* dollars per month allowed to non-commissioned officers, musicians, and privates, in his immediately succeeding 3d and 6th chapters, also to correspond with the same increase of their pensions to *eight* dollars per month, according to the same act of 24th April, 1816? But, in fact, it is not competent for him or any other authority to make a preceding law correspond with the provisions of a subsequent one; and the minutest alteration of the letter of the law is a fraud. Were it desirable to note the increase of pensions that had subsequently taken place, it should have been uniformly done in the several acts, and in respect to all grades of pensions, in *brackets*, without altering the original. He has also made his chapter 1—which is a mutilated extract from the act of the 30th April, 1790—provide for rangers and seafencibles, not mentioned in that law, and not known to the service until the war of 1812, with the Indians and Great Britain. In chapter 9, and chapter 10, (each of which, on account of their editorial enormities, claims a principal notice under nearly all the heads of these strictures) are

exhibited instances of interpolation, most of which have already been mentioned, when speaking of the editor's artificial combinations of extracts from different laws in the same chapter. But, in regard to the *mellange* of chapter 10, the pains-taking artifice by which it is made up, must not be overlooked as respects a particular feature of it that I will now mention. After extracting nine and a quarter lines, (being sec. 4, of the act of April 25, 1808, authorizing certain descriptions of invalids to be placed on the pension list, at rates of compensation, and under regulations prescribed by the act April 10, 1806,) he goes on, in the same paragraph, to connect with said sec. 4, of 25th April, 1808, a garbled part of sec. 3, of act of 18th April, 1814, by the dovetailing intervention of two lines, of his own dictation, so artfully constructed as to make the garbled part of sec. 3, of the latter law, fit the sec. 4, of the former act, and, at the same time, to bring into action, immediately after that garbled section, the garbled rules and regulations relating to invalid pensioners, as he has partially derived them, at a hop, skip, and jump, from the act of the 10th April, 1806, which he never quoted as being among the laws now in force! Grant that all this may be very expressive of the mode of administering the Pension Office, and possibly correct, withall, as to the practical results, yet it is neither a faithful transcript of the pension laws, nor does it give a satisfactory evidence of the good faith of the presiding officer, much less a satisfactory assurance that the practice of the officer is correct, under such an arbitrary *mellange* of materials—of laws and regulations, if you please so to term them—which to say the least of it, is an outrage upon the letter and forms of law, that no one can justify or excuse, even if it be not based in pension frauds of the grossest character and amount.

7. OF REPEALED AND OBSOLETE LAWS.—It would not become that degree of modesty proper to all who are not profound judges of law, to say how extensively Mr. Edwards may rightfully have gone in introducing extracts from laws that are repealed or obsolete, and excluding others that are not so, while making up this spurious production, mis-called "the pension laws now in force." That he has done so, however, to some extent, there can be no doubt. Of this class, I may safely refer to those, which, from their express condition, involve vested rights, by partaking of the obligation of contracts, and therefore cannot be repealed, or become obsolete, until the ascertained death of all the persons entitled to the benefits of them, or the timely acceptance of commutation in such cases provided. Of this description, for example, I presume it will not be denied, are the resolutions of the 15th May, 1778, October 3, and 21, 1780, and March 22, 1783, neither of which is noticed by Mr. Edwards, while they are clearly of the nature of contracts of the government, tendered to, and accepted by, all who entered, and continued in the public service to the end of the war, upon the good faith of those resolutions, which entitled them to half pay during life, to commence from the time of their reduction. That such acts or resolves are properly viewed in the nature of contracts, we need refer to no other authority than that of the act of March 2, 1833, which Mr. Edwards ought to have become acquainted with from his own compilation.

Such is the "*vade-mecum*" afforded by the late Commissioner of Pensions, to the two Houses of Congress, the chief executive officers and their subordinates, to claimants under those laws, and to all parties interested in the proper execution of the pension system. It will not be denied by any impartial or unprejudiced person, that there was too great a license left to the discretion of Mr. Edwards, to say what pension laws were in force at the date of his report; and that he made a great mistake in excluding many laws as not in force, which, partaking of the nature of contracts, must necessarily continue in force whilst there might be a claimant, widow, orphan, or legal representative living, who, if not yet satisfied, might be entitled to receive the benefits promised to them; also that he greatly abused his authority, by mutilating those laws he did select as now in force, and practicing other gross freedoms with them—all of which is too apparent for further remark.

We now proceed to elucidate, in our own humble way, the general policy of the pension and bounty land system of the United States—a policy which is only derivable from a comprehensive survey of the whole subject.

In the first place, then, it is proper to state, that this system is not confined or restricted to those who have been connected with the naval or military service of the United States, as might be inferred from the title of this compilation. The system, as it developed itself, soon took a much wider range, as will be presently seen.

The most striking and regular feature of the pension division of this system, which evolved itself at the beginning of the revolution, and which has maintained itself throughout our military conflicts, as the fundamental principle from which all the purposes of the liberal extension of the pension laws afterwards emanated, is to be found in the resolution of the 26th of August, 1776, providing pensions for officers of the army and navy, and for the soldiers, seamen, and marines, who may lose a limb, or be otherwise disabled in the line of their duty, adequate to their support; but not to exceed their half pay, in cases of complete disability; and proportionably less in cases of less than complete disability.

Shortly after that resolution providing pensions for invalids, another important feature of this system sprang forth in the resolution of the 16th of September, 1776, providing for *grants of land* in certain specified proportions, as a bounty to officers and soldiers who shall engage in the service and continue therein to the close of the war or until discharged by Congress, and to the representatives of such officers and soldiers as shall be slain by the enemy.

From these two resolutions, it is manifest that Congress set out with the purpose of providing *pensions* to persons connected with the military and naval service, as set forth in that of the 26th of August, and *land bounties* to persons connected with the military service, only, as set forth in the resolution of the 16th of September—a discrimination, by the bye, that must have arisen from an oversight of the moment, or from some policy not intended to be perpetual.

Nor could two resolutions, however comprehensive and satisfactory under the then existing infancy of our national legislation, be expected to complete the system they set in motion. Accordingly, it was not long (less than two years) before Congress introduced a *new* and very important *feature* in the pension branch of the system, by the resolution of the 15th of May, 1778, providing “half pay for seven years after the conclusion of the war, to all officers who shall continue in the army to the end of the war;” which half pay was viewed in the light of a *pension* from the date of its enactment, and has been so considered and practically regarded ever since, though not so called in the resolution. And in two years more, this very provision of half pay to officers continuing in the service, &c., was extended to the widows and orphans of those, and also of other officers, “who have died, or shall hereafter die in the service;” as expressed in the resolution of the 24th of August, 1780. And again, in less than two months more, the provision for the *former* continuing in service during the war, was continued to them, for life, by the resolution of the 21st of October, 1780.

A grave question was raised and elaborately discussed some years ago, which, though of no practical utility now, it will be quite a curious evidence of the uses to which legal learning may be applied to carry some questions of emergency against the obvious provisions of law, and the executive practice under them. In that discussion, in which the President of the Bank of the United States and the Secretary of War were antagonists upon the question of the authority of the latter over the books, deposits, and payments, of “pension funds” by the Bank and its branches, as the pension agents under its charter, (the same having been brought up in reference to the payments of the pensions provided for by the act of 7th June, 1832,) the opinion of the Attorney General, the Hon. B. F. Butler, was resorted to by the Secretary of War; and in the fearful odds existing against the Bank, the learned Attorney General seems, in one respect, to have gone into a labor of supererogation, having all the strong points in his own hands against the Bank, to prove that the above cited resolution of the 21st October, 1780, formed no part of the pension system; and that all those subsequent enactments based upon it are to be excluded from all consideration as pension laws; specifying the act of the 15th of May, 1828, and

the act of the 7th of June, 1832, then the subject of contention. If the establishment of that proposition had been essential to carry the point assumed against the Bank, it might have been more difficult to accomplish than it proved to be. For, to exclude these laws from the pension system, would be a virtual exclusion of the other two above cited resolutions of the 24th of August, 1780, and the 15th of May, 1778, and consequently to strike from the pension rolls all the officers, and the widows and orphans, therein provided for. And the same fate would attend all others not embraced in the class of invalid pensioners. That argument of the learned Attorney General, of the 3d of February, 1834, occupies more than ten closely printed octavo pages in the *Opinions of Attorneys General*. So that, from its great length, and its inapplicability to any *possible* contingency hereafter—these laws having continued to be regarded by Congress and the Executive Departments in the class of pension laws, and that argument having served the emergency under which it was written—it would be out of place in this collection, as contravening the settled practice of the Departments in executing those laws.

It will not be amiss, however, to state here, and to make a remark thereon, as pertinent to the main subject of this Introduction, that the chief reliance of the Attorney General to show that these laws are not pension laws, is, that the *pay, compensation, or half pay*, conferred on the officers who had rendered the service described, and on their widows, &c., was not called a *pension* by those acts; and that the acts of the 7th June, 1832, and of the 15th May, 1828, were ordered to be executed at the Treasury Department. But these allegations respecting those laws, though true, will readily be perceived not in the least to impugn their classification as pension laws, and the pecuniary provisions they contain as *pensions*. The single fact that these laws were, very soon after their passage, ordered by Congress to be executed at the War Department, then having charge of the other military pension laws, goes far to invalidate that part of the Attorney General's argument. In the next place, the fact that other pension laws were then executed in another Department, and that all of them have been from time to time executed at different Departments, must totally set aside all plausibility assumed by this part of the argument, and also show that this or that particular Department in which these laws were executed, did not necessarily settle the question whether they were pension laws. But, in divesting these laws of the pension feature or denomination, as the learned Attorney General endeavors to do, he plainly insinuates that they properly belong to the pay department of the army; for he contends that they should follow their character of military pay, half pay, compensation, &c., as expressed in the acts themselves. Yet, this would be as far from sustaining the views of the Attorney General, because these provisions of half pay, &c., being pure *gratuities*, in consideration of eminent services, privations, hardships, and decline of life, in the public service, in the evil consequences of which their widows and orphans must more or less participate, could not fail to be characterised and associated under the general denomination of pensions, and be barred from any association whatever with the established military pay assigned to the great pay department of the army. Nay, any other disposition that could have been made of these gratuities, by the learned Attorney General, or by the authority of Congress, instead of assigning to them the denomination of pensions, would have despoiled them of that beautiful and prepossessing trait they rightfully derive from the benevolent and paternal charms of the pension system, which holds forth to every man that goes into the service of his country the implied paternal promise, that he and his shall not be forgotten in the extremities that may come upon them, even if they should escape personal wounds and disabilities which would entitle them to "invalid pensions"—but that disabilities of another character, springing upon them from other sources, mainly because the prime of their lives had been

so spent in their country's cause, that they were rendered less able to provide for themselves at last—would yet entitle them and theirs to be cherished in the sympathizing recollections of their grateful country. Accordingly, there has been amply awarded to them, these tokens of gratitude and sympathy for the privations incident to a military life, and the general disabilities consequent thereto, under the paternal denomination of "pension," in lieu of which any other general denomination would be viewed as odious!

If these remarks be not satisfactory against the assumption of the learned Attorney General, that the act of the 7th June, 1832, is not a pension law, all further doubt will be removed by referring to the resolution of the 2d of March, 1833, [155] p. 177 of this compilation, passed less than one year after the act of June, 1832, which says "that in the execution of the said act of the June 7th, 1832, wherever it shall be made to appear that any applicant for a *pension* under said act, entered the army of the revolution previous to the 11th of April, 1783, and continued in service until after that period," &c. It is not material here to form a conjecture how this resolution, passed during the incumbency of Mr. Attorney General Butler, characterizing the aforesaid act as a pension law, should have escaped the observance of his all-searching eye.

Not to multiply evidence unnecessarily from the highest authority, we shall barely advert to the opinion of the immediate predecessor of Mr. Butler, Mr. Taney, now Chief Justice of the United States, in which he speaks of this act throughout as a pension law. He commences that opinion saying, "The act of June 7th, 1832, granting *pensions* for revolutionary services, is not confined to resident American citizens. The 1st section gives the pension to 'each of the surviving officers, non-commissioned officers, musicians, soldiers, and Indian spies, who served in the continental line,' " &c. &c.—(See *opinion*, October 27, 1832, [35] *Appendix*.)

But, to return from this important digression, the *new feature* before mentioned, of munificent *gratuities* for eminent services and privations, having been introduced by the resolution of the 15th of May, 1778, and confirmed by the resolutions of the 24th of August and 21st of October, 1780, and varied only in certain cases by the commutation resolution of the 22d of March, 1783, by extending its principles, gave earnest of the subsequent enactments, down to the present time, establishing a class of auxiliary, or rather *complemental pensions* to supply the deficiency of the institution of invalid pensions, by making provision for the privations, hardships, and disabilities of a less definitive character, but necessarily incident to a military life, (and which might be rightfully considered as the counterpart of invalid pensions, if not emanations from them,) but in point of dignity and indispensable justice, secondary to them, though amplified and extended, in the end, to nearly the whole military and naval service, or their widows and orphan children.

In like manner did the bounty land resolution of the 16th of September, 1776, passed in anticipation of this *complement* to invalid pensions, furnish an auxiliary, also, in its way, to the pension system, properly so called, by instituting land bounties; but in various proportions, and more restricted in regard to denominations and dignity of service—that is, restricted to officers exclusively, and to those of the army alone, or, rather, exclusive of the naval service—for bounty lands were amply provided for refugees and deserters from the enemy, to be noted hereafter.

Having thus far established the three great foundations of the entire pension system, consisting of *invalid pensions*, *gratuitous pensions*, and *land bounties*, it only remained to carry out its fundamental principles according to the expanding and liberal policy of the Government, by bringing upon that great pension platform, all the objects deemed worthy of the country's bounty and support, in the different ways it had sketched out, in

order to complete the details of the system. And though we shall find it, in the course of time, extended by that liberal policy to many parties not actually participating in physical disabilities, or privations, and hardships, in the military or naval service; yet, in every instance, these metes of justice, and tokens of gratitude, will be found very appropriately to range under either *invalid pensions*, *gratuitous pensions*, or *land bounties*.

Such being the ascertained outlines of the system established at an early period during the revolution, it will now be comparatively easy to show on what classes or descriptions of persons Congress thought proper to confer each or either of those evidences of their justice and grateful regard: in other words, to show how the fundamental principles and policy of this system were afterwards extended so as to embrace all persons worthy of their provisions, besides those connected with the military and naval service proper; and how they maintained their consistency in that extension of the national policy, or became occasionally irregular in their details, as to particular laws or classes of acts, and the administration of them: for example, that immense class of laws making provision for Virginia military bounty lands, had circumstances peculiar to distinguish them from all other land bounties, and have always been executed separate from them, and chiefly at the General Land Office.

FIRST.—OF INVALID PENSIONS.

It will be proper to consider invalid pensions under two heads; those granted to invalids of the revolution, and those granted to invalids since the revolution; on account of the difference of circumstances and regulations which bring the invalids of those different periods on the invalid pension rolls. It will be perceived that these two heads embrace not only the invalids of the regular military service, and the invalids of the naval service proper, but also the invalids of the marine, the privateer, seafencible, ranger, and volunteer service of the United States, as these respective *auxiliary* branches have been instituted and provided for from time to time, in connexion with the regular military and naval service, under the emergencies and the policy of the government demanding them.

1. *Invalids of the Revolution*.—Officers, commissioned and non-commissioned, of the army and navy, also musicians, soldiers, marines, seamen, and privateersmen, who lost a limb, or were otherwise disabled in the line of their duty, including militia and volunteers, as well as those who, after disability incurred, resigned their commissions and were discharged, or were taken captive by the enemy, and so remained, or on parole, to the end of the war, were entitled to pensions adequate to their support during life, or the continuance of their disability, not to exceed their half pay as officers, soldiers, marines, or seamen, for complete disability, and a less rate according to the diminished rate of disability—the period of the war being defined to be from the commencement of hostilities on the 19th of April, 1775, to the definitive treaty of peace on the 11th of April, 1783—all arrears of pensions due to said invalid pensioners at their death, being subject to be paid to their widows, orphans, or legal representatives—at which time they fall into the class of *gratuitous pensions*. The various resolutions and acts of Congress providing for these invalids, will be found appropriately referred to in the table of analysis at the conclusion of this Introduction.

The mode adopted by Congress to find out and procure authentic lists of these invalids, was, to recommend to the State legislatures to provide for and pay such invalids in their respective States, on account of the United States, and transmit a report of the same, quarterly, to the Secretary of Congress or the Board of War, (see resolution [1] p. 1, articles 4, 5, 6, 7;) and subsequently, to require the judges of district and circuit courts, on their clerk of court making due publication, to entertain the proper proceedings to ascertain, and transmit authentic lists of such invalids to the Secretary of War for his inspec-

tion and comparison with the military rolls in his office, and report the said lists, with his remarks and suggestions to Congress, that said invalids might be provided for, and be directed to be placed on the pension roll by the Secretary of War.—(See *act of the 23d March, 1792*, [9.] p. 22.)

The act of 28th February, 1793, [12] p. 26, stating that the said pension act (of 1792) "is found by experience to be inadequate to prevent the admission of improper claims to invalid pensions, and not to contain a sufficient facility for the allowance of such as may be well founded," repealed the 2d, 3d, and 4th sections of the aforesaid act, and prescribed rules to be observed in the investigation of those claims, and repeated the injunctions on the court to transmit to the Secretary of War a list of those claiming, accompanied with the evidence therein directed.

But the act of the 10th of April, 1806, [35.] p. 49, repealed these and all other acts, so far as they authorized persons to be placed on the pension rolls, for, and in consequence of wounds received in the revolutionary war, and prescribed other rules and regulations for the government of the courts in preparing and transmitting the lists of claimants, with the evidence in their behalf, to the Secretary of War, to be reported to Congress, with his remarks.

So that under these regulations and others subsequently adopted, the lists of claimants to revolutionary invalid pensions, as likewise claims for increase of pensions, as provided for by law, continued to be transmitted by the courts to the Secretary of War, until the act of the 3d of March, 1819, [93.] p. 124, sec. 4, authorized the Secretary of War thereafter, to place on the pension rolls, "*without reporting said lists to Congress*," all persons entitled to pensions in conformity with the provisions of the act of the 10th of April, 1806, and the 4th section of the act of the 25th of April, 1808.

Nor is it unworthy of remark here, that under the proceedings in court, required by those laws, a principle was matured in ascertaining the degrees of disability, whereby commencing with complete disability, they discriminated all grades of disability down to nothing, designating them accordingly, as seven-eighths of disability, half disability, one-eighth disability, and all intermediate grades, entitling such invalids to a full pension, seven-eighths of a pension, one-half of a pension, one-eighth of a pension, &c., which would baffle the efforts of modern skill to ascertain such minute grades of disability—the surgeons making surveys of disability in latter days, being generally content with reporting, on an average, one-half, three-fourths, or complete disability, without going into the calculation of minute fractions of disability. For further light respecting revolutionary invalid pensions, we must see the analysis appended to this Introduction, and the several acts there referred to, and particularly to the acts concerning invalid pensions, directing the list of invalids they contain, to be placed on the pension rolls. These latter constitute a feature peculiar to the treatment of revolutionary invalid claims, there being no such process for ascertaining and verifying, in the courts, the claims of invalids disabled since the revolution, as will be seen under that head here next ensuing.

2. *Invalids since the Revolution*.—Whilst the interests of revolutionary invalids were receiving great attention, even down to the present time, invalids disabled since the revolution were also participating in the bountiful consideration of Congress, as early as the first act passed after the war, "for regulating the military establishment of the United States," of the 30th of April, 1790, [2.] p. 15. By that act, ordering the enlistment of "able bodied men," it was provided that if any commissioned, or non-commissioned officer, musician, or private, shall be wounded or disabled, while in the line of his duty, he shall be placed on the list of invalids of the United States, at such rates of pay, under such *rules and regulations* as shall be directed by the PRESIDENT, for the time

being, not to exceed, for the highest disability, half the monthly pay at the time of the wound, for commissioned officers, and never to exceed five dollars a month for non-commissioned officers, musicians, and privates; and for inferior disability, sums proportioned to those for the highest disability.—(*See the act itself of the 30th of April, 1790, [2,] p. 15.*)

The provisions and restrictions in relation to disabilities that might occur in the regiment of three years' men ordered to be enlisted into the service of the United States by this act, to be executed under regulations by the President, were continued from time to time, and applied to the claims of persons who might be disabled in other regiments of the regular army, the militia and volunteer corps called into the service of the United States by subsequent acts, until the passage of the act of the 25th of April, 1808, [38,] p. 56, as may be seen by the acts referred to in the table of analysis under this head. By this latter act, however, the claims of invalids of the regular army, militia, and volunteer corps, disabled in the service of the United States *since* the revolutionary war, were ordered to be thereafter placed on the pension roll at the *rates*, and under the *new* regulations prescribed by the act of the 10th of April, 1806, [35,] p. 69, further providing for invalids disabled in the war of the revolution, whereby the claims of invalids disabled *during* the revolution, and *since* the revolution, became assimilated, and in every practical sense identified, except as to the periods of their disability *during* or *since* the revolution, whereby it was, nevertheless, easy to preserve these pension rolls distinct. From that time the provisions for invalids of this last mentioned act were continued and executed under the same regulations therein prescribed, until the passage of the act of the 3d of March, 1815, [56,] p. 100, (including the provisions for invalids in the corps of rangers and seafencibles, raised by the act of January 2, 1812, and the act of July 26, 1813,) with the exception of the invalids of the campaign of the Wabash, who were required by the act of the 10th of April, 1812, [47,] p. 53, to be placed on the pension roll at *rates* to be prescribed by the *PRESIDENT*, and under *regulations* to be adopted by the Secretary of War. But the aforesaid act of the 3d of March, 1815, adopted the same provisions for wounds and disabilities of officers and privates of the peace establishment of 1815, that were adopted for the peace establishment of 1802, under regulations at the discretion of the *PRESIDENT*. And again, the act of the 16th of April, 1816, [58,] p. 103, authorizes and directs that invalids disabled during the late war (of 1812 and 1815) be placed on the pension roll under *rules of evidence* to be prescribed by the *PRESIDENT*, *provided* they do not interfere with those prescribed by the act of the 2d of August, 1813, [51,] p. 93, which act, by the bye, had adopted the regulations of the aforesaid act of the 10th of April, 1806; and consequently those regulations were again brought into operation, virtually repealing those applied to claims of invalids of the peace establishments of 1802 and 1815. And we have seen under the preceding head that the act of the 3d of March, 1819, established new rules and regulations for ascertaining disabilities of invalids incurred *during* and *since* the revolution: so that if we had not now nearly exhausted this subject, we might well say that no further evidence can be necessary to show the instability of legislation in prescribing rules and regulations for the ascertainment and adjudication of invalid pension claims, and the rates of pensions to be awarded. But it may be satisfactory to know that there is very little variation in the practice of either, inasmuch as, whenever these are left to the discretion of the President or of the heads of departments, the most approved legal provisions in like cases are adopted by them.

It may be desirable to most readers, to find, in this connexion, a brief statement of the origin, the objects, and the management, of those important funds, viz: the "Marine

Hospital Fund," the "Navy Pension Fund," and the "Privateer Pension Fund," in order to appreciate their connexion in administering relief to mariners, and to facilitate a proper distinction between them—those funds having been liable to some confusion on several accounts, such as the similarity of their objects, and the identity of the high functionaries to whose charge they were severally entrusted, as "Commissioners of the Marine Hospital Fund"—"Commissioners of the Navy Pension Fund"—and "Commissioners of the Privateer Pension Fund;" in which last instance, however, the fund named is erroneously assumed even by law to have been so entrusted, and by law has been confounded with the Navy Pension Fund, as will be seen in the sequel.

1. *Of the Marine Hospital Fund.*—On the 16th July, 1798, "An act for the relief of sick and disabled seamen," was passed, whereof section 1 provides "that from the first of September thereafter, the master or owner of every [merchant] ship or vessel of the United States, arriving from a foreign port, shall render to the collector of the port at which such vessel may enter, a true account of the number of seamen employed on board such vessel since she was last entered at any port in the United States; and shall pay to the said collector, at the rate of twenty cents per month, for every seaman so employed; which sum he is hereby authorized to retain out of the wages of such seaman. And that from the first of September, aforesaid, no collector shall grant to any ship or vessel whose enrolment or license for carrying on the coasting trade has expired, a new enrolment or license, before the master of such ship or vessel shall first render a true account to the collector of the number of seamen, and the time they have severally been employed on board such ship or vessel, during the continuance of the license which has so expired, and pay to such collector twenty cents per month, for every month such seamen have been employed, which sum the master is authorized to retain out of the wages of such seamen. Out of this fund the President of the United States is authorized to provide for the temporary relief and maintenance of sick and disabled seamen, in the hospitals or other institutions then existing in the several ports of the United States. The President is also authorized to purchase or receive donations of ground or buildings, and when necessary, to cause buildings to be erected as hospitals, for the accommodation of sick and disabled seamen. And he is further authorized to appoint persons, to be called directors of the marine hospital (subsequently called navy hospitals) of the United States, in the different ports, whose duty it shall be to direct and govern such hospital," &c.

The objects and resources of this fund were considerably enlarged as follows: On the 2d March, 1799, "An act in addition to 'An act for the relief of sick and disabled seamen,'" provides "that the Secretary of the Navy shall be authorized to deduct, after the first day of September next, from the pay thereafter to become due, of the officers, seamen, and marines, of the navy of the United States, at the rate of twenty cents per month, for every said officer, seaman, and marine, and to pay the same quarter annually, to the Secretary of the Treasury, to be applied to the same purposes as the money collected by virtue of the abovementioned act is appropriated, (to be in like manner under the direction of the President of the United States.) And that the officers, seamen, and marines, of the navy of the United States, shall be entitled to receive the same benefits and advantages, as, by the act above mentioned, are provided for the relief of the sick and disabled seamen of the merchant vessels of the United States."

The objects and resources of said fund were afterwards modified and extended by the act of the 26th February, 1811, "establishing navy hospitals," of which the 1st section provides, "that the money hereafter collected by virtue of the act entitled 'An act in addition to 'An act for the relief of sick and disabled seamen,'" shall be paid to the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, for the

time being, who are hereby appointed a board of commissioners, by the name and style of 'Commissioners of Navy Hospitals,' which, together with the sum of fifty thousand dollars hereby appropriated out of the unexpended balance of the 'Marine Hospital Fund' to be paid to the commissioners aforesaid, shall constitute a 'Fund for Navy Hospitals.' And the 2d section says, "all fines imposed on navy officers, seamen, and marines, shall be paid to the Commissioners of Navy Hospitals." And the 3d section requires the said commissioners to provide or cause to be erected necessary buildings, &c., at suitable sites, and, "at one of the establishments, to provide a permanent *ASYLUM* for disabled and decrepid navy officers, seamen, and marines." And the 4th section requires the said commissioners to prepare and report to Congress the necessary rules and regulations for the government of this institution. And the 5th section provides, "that, when any officer, seaman, or marine, entitled to [and in receipt of] a pension, shall be admitted into a navy hospital, [or the asylum,] such pension, during his continuance therein, shall be paid to the Commissioners of the Navy Hospitals, and deducted from the account of such pensioner [by the pension agent at the agency where his pension is usually paid.]"

2. *Of the Navy Pension Fund.*—On the 2d March, 1799, and 23d April, 1800, the acts of those dates (*see* [226] and [227] *sequel*) established the "navy pension fund." The said acts "for the government, or for the better government of the navy," provides as follows: "That every officer, seaman, or marine disabled in the service, shall be entitled to receive for his own life and the life of his wife, if married at the time of receiving the wound, one-half of his monthly pay, (sec. 8.) That all the money accruing, or which has accrued, from the sale of prizes, shall be a *permanent fund* for the payment of the half pay to officers and seamen who may be entitled to receive the same, and the surplus shall be applied to the making of further provisions for the comfort of disabled officers, seamen, and marines, and for such as may not be disabled, who may merit, by their bravery, or their long and faithful services, the gratitude of their country. And that the said fund shall be under the management and direction of the Secretary of the Navy, of War, and of the Treasury, for the time being," under the name and title of "Commissioners of the Navy Pension Fund," &c.

But the act of the 26th March, 1804, in relation to the navy pension fund, directs that all moneys accrued or accruing thereafter, from the capture and sale of prizes, shall be paid to the Treasurer of the United States, instead of the Commissioners of the Navy Pension Fund; and the said commissioners are authorized and directed by that act to make such regulations as may be expedient for the admission of persons on the roll of navy pensioners, and for the payment of the same. Before the establishment of this fund, however, the act of 1st July, 1797, "providing a naval armament," had, in section 11, directed "that any officer, non-commissioned officer, marine, or seaman, belonging to the navy of the United States, who shall be wounded or disabled while in the line of his duty, shall be placed on the list of invalids of the United States, at such rates of pay, and under such regulations, as shall be directed by the President of the United States," &c. (*See the act* [225] *page* 229, *sequel*.) Said pensions, of course, until the establishment of this fund, were paid out of the Treasury.

3. *Of the Privateer Pension Fund.*—This fund was not established until the 26th June, 1812. The act of that date, entitled "An act concerning letters-of-marque, prizes, and prize goods, section 17th, says: "That two *PER CENTUM* on the nett amount (after deducting all charges and expenditures) of the prize money arising from captured vessels and cargoes, and on the nett amount of the salvage of vessels and cargoes recaptured by the private armed vessels of the United States (the whole of which had constituted the *navy pension fund*,) shall be secured and paid over to the collector, or other chief

officer of the customs, at the port or place in the United States at which such captured or recaptured vessel may arrive. And the moneys arising therefrom shall be held, and hereby is pledged by the government of the United States, as a *fund for the support and maintenance of the widows and orphans of such persons as may be wounded and disabled* on board the *private armed vessels* of the United States, in any engagement with the enemy, to be *assigned and distributed* in such manner as shall *hereafter* by law be provided"—this being the first provision for privateer invalids.

And by the act of the 13th February, 1813. "regulating pensions to persons on board of private armed ships," the *TWO PER CENTUM* reserved in the hands of the collectors and consuls, under the aforementioned act, is required to be paid into the Treasury, and to constitute a fund for the purposes provided for by the 17th section of the aforesaid act of 1812. And the 2d section of this act of 1813, requires the *Secretary of the Navy* to place on the pension list, under the like regulations and restrictions as are used in relation to the navy [query—*navy pensioners* ?] of the United States, any officer, seaman, or marine, who, on board of any private armed vessel bearing a commission of letter-of-marque, shall have been wounded or otherwise disabled in an engagement with the enemy, &c., &c., which pension shall be paid, by direction of the Secretary of the Navy, out of the fund above provided." And the 3d and 4th sections of this act requires "that the commanding officers of such vessels shall keep a journal of the name and rank of any officer, and the name of any seaman, who shall have been so wounded or disabled, describing the manner and extent of the same, so far as practicable; and that every collector shall transmit quarterly to the Secretary of the Navy a transcript of such journals as may have been reported to him of such wounds and disabilities, the better to enable the Secretary to *decide on claims for privateer pensions*."

Now, although the *privateer fund* never was paid to, or put in charge of, the three Secretaries—the Secretary of the Navy, the Secretary of War, and the Secretary of the Treasury—as commissioners of different funds, but was required to be paid into the Treasury by this act, and the Secretary of the Navy alone was charged with the duty of receiving and adjudicating privateer pension claims, and was required to pay the same out of this fund, being an exception to the policy observed in the case of navy pensions; yet the act of July 10th, 1832, treats it as having been *one of those funds* from which it releases and discharges those Secretaries of all further trust and responsibility, whilst it transfers to, and constitutes, the Secretary of the Navy the sole trustee of all said funds. It says: "The Commissioners of the Navy Pension and Navy Hospital Funds are hereby directed to close their accounts as trustees of said funds, and to pay over the balance of cash in their hands, and to assign over and transfer all the certificates of stocks and other property belonging to the said funds and *to the privateer pension fund*, to the Treasurer of the United States [to whom the latter had already been directed to be paid] for the use of the Secretary of the Navy, for the payment of navy and privateer pensions, [with which latter he was already charged,] and for expenditures on account of navy hospitals, et cetera; and as soon as said assignment and transfer shall be made, the said commissioners shall be, and they are hereby, released and discharged from all further trust connected with said funds, and the Secretary of the Navy be, and he is hereby, constituted the *trustee of said funds*; and as such it shall be his duty to receive applications for pensions, [being already charged with the applications for *privateer pensions*.] and to grant the same according to the terms in such cases made and provided; and to direct and control the expenditures out of the navy hospital fund."

Nor has it been less difficult, in the intricacies of legislation, at other times, to maintain

the proper distinction between the navy pension fund and the privateer pension fund. One more instance will suffice. The act of the 3d of March, 1817, "to amend and explain an act giving pensions to widows and orphans of persons slain in the public or private armed vessels of the United States; *provided*, (as also did the act so explained and amended,) that the money required to pay such pensions should be paid out of the navy pension fund, under the direction of the commissioners of that fund." Whereas, there should have been a distinction between the payments to widows and orphans of persons slain in the *public* vessels of the United States, and the payments required to be paid to the widows and orphans of persons slain in the *private* armed vessels of the United States. Accordingly, at the next session of Congress "an act in addition to the above act" was passed on the 16th April, 1818, which made the proper distinction by *providing*, in the second section, "that the widow, and if no widow, the children of any officer, seaman, or marine, who shall have died in consequence of casualties which occurred in the line of his duty on board of a *private* armed vessel of the United States, shall be paid out of the *privateer pension fund*, and *no other*." It is well known, however, that the like misapprehensions have occurred in a great number of other instances, where explanatory acts in most of them have been resorted to.

But, before passing to the next head of gratuitous pensions, it is proper here to note a fact, and to make a few remarks in illustration of the same, however irrelevant to this review of the general policy of our pension system, that, in the administration of the laws granting pensions to invalids both of the military and naval service of the revolution, and since the revolution, there never has been an official *form* prescribed, technically called a "declaration," by which an invalid in either service might approach the proper department with his claim for a pension. For the want of such a guide, the invalids in both branches of the service have suffered the greatest embarrassment how to proceed in presenting their claims to the consideration of the proper department.

Whilst the different States, severally,—under the recommendation of Congress by the resolutions of the 26th August, 1776, and 7th June, 1785, to provide for the revolutionary invalids, both of the military and naval service, at the account and charge of the United States, according to the certificates of a commanding officer and surgeon of the regiment, ship, or company, in which they served, or from a physician or surgeon of a military hospital, or other good and sufficient testimony setting forth their disability, and that they were disabled in *the service* of the United States, and to report by their appointed agents complete lists of said invalids made out by those agents, in the first instance, to the Secretary of Congress or to the Board of War, under the resolution of 1776, and afterwards, under the resolution of 1785 to the office of the Secretary of War, to be laid before Congress; in which lists were required to be expressed the *pay*, the *age*, and the *disability*, of each individual, also the *regiment*, the *corps*, or *ship*, to which they belonged, and which requirements were subsequently executed (under the 1st section of the act of the 10th April, 1806, including invalids since the revolution, and repeated by the 4th section of the act of the 25th of April, 1808) by the judge of the district in which the invalid resides, according to the regulations prescribed by the former act,—did actually so provide the modes of approach and presentation of the claim of such invalids of the military and naval service during and since the revolution, through the the said prescribed channels, they, consequently, had no need for further concern in the matter, as their names would be placed on the pension rolls of course, at the stated rates of disability recited in said lists.

But when those channels for communicating the matured claims of invalids for disability incurred during and since the revolution, passed away from, or rather were not

continued to be available to the invalids subsequently disabled in the campaign of the Wabash, and in the war of 1812, great embarrassments arose to the invalids of those conflicts, both military and naval, and have continued ever since for the want of a duly authenticated mode of preferring their claims being substituted for those which had been dropped, and virtually repealed or abolished by legislative enactments about this period. For the act of the 10th of April, 1812, section 3, says that "every officer, non-commissioned officer, and private, of volunteers and militia, who served in the said campaign, (of the Wabash,) and who have been disabled by known wounds received in said service, shall be placed on the list of invalids of the United States, at such rate of pension as shall be directed by the President of the United States, *upon satisfactory proof being produced to the Secretary of War, agreeably to such rules as he may prescribe;*" and the acts of January 2 and 11, and of February 12, 1814, for raising "certain companies of rangers," "additional military force," and "to accept and organize certain volunteer corps," direct that "all officers, non-commissioned officers, musicians, and privates, who shall be disabled in the line of their duty, shall be placed on the list of invalids of the United States, at such rate of pension, and under such regulations, as are or may be directed by law;" thereby dispensing with the former mode of presenting and maturing military invalid claims.

But the establishment of the "*navy pension fund*," consisting of moneys accruing to the share of the United States from the sale of prizes captured from the enemy, placed under the direction and management of the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, by the acts of March 2, 1799, and April 23, 1800, "for the government of the navy of the United States," had produced a change, as to the navy invalids, in regard to the funds out of which they had previously been paid, though without disturbing the facilities they enjoyed in presenting and maturing their claims before the State authorities.

The annual reports of those commissioners which have been accessible to us, afford no evidence of any change in the mode by which navy invalids who were thereafter to be paid out of this fund, were required to present their claims for adjudication, nor had they any authority as yet to make any. And as the duties of this board were of a purely fiscal character, chiefly confined to the receipt and management of the United States' share of prize money, the purchase and management of stock, and the payment of dues accruing thereon, including navy invalid pensions theretofore paid at the treasury, it is evident they had no concern with the manner in which these pension claims were adjudicated, but probably recognized the adjudication of those claims as transmitted by the several State authorities, along with those of the military invalids, to the War Department; whence the lists of navy invalids were probably handed over, with a requisition on the Board of Commissioners for payment of their pensions. And when that board was relieved of the management of this fund by the act of the 26th March, 1804, directing those proceeds to be paid into the treasury, to be disbursed by the Treasurer of the United States; and, in lieu of the management of said funds, the commissioners were clothed with the authority to administer the navy pension laws, and "were authorized and directed to make such regulations as might to them appear expedient, for the admission of persons on the roll of *navy pensioners*, and for the payment of their pensions"—this modification, or abridgement of their duties in one sense, and enlargement of them in another, should have resulted in the adoption of regulations thus called for in the premises, to carry out the execution of those enlarged duties. But, whatever may have been done in this regard, has left no traces in the Department by which to refer to and ascertain the particulars, as guides thereafter. This, however, shall be a subject of further inquiry

and research. But if the Secretary of the Navy, tacitly relying on the course that had been pursued by the Board of Commissioners, or upon the reports and requisitions from the Secretary of War made on the authority of *certificates of disability* by the naval surgeon, and the *discharge* from service made by the commanding officer on the facts stated by the surgeon's certificate, then, all the embarrassing circumstances of this important *chasm* in the *forms* and *regulations* necessary for initiating those claims before the *Navy Department* for adjudication, were still continued, to the great inconvenience of the claimants and those ministerial officers in the Department charged with this duty under the direction of the Secretary. Nor was there ever a *form* of a *declaration* or other *regulations* prescribed for the admission of *privateer invalids* on the pension roll by the Secretary of the Navy, although they never had the *benefit* of the State authorities to prepare and report their matured claims to the Secretary of Congress, the Board of War, or to the Secretary of War, with other revolutionary invalids; or, if they ever enjoyed that benefit, it was under the general class of "invalids of the navy," which is not at all feasible, as there was no legal provision for including them under that class, and the acts of 1812* and 1813, above cited, bear all the internal evidence of original acts on the subject.

* This act concerning letters-of-marque, prizes, and prize goods, is here inserted entire, for the purpose of giving a more perfect conception of the uses, purposes, and regulations of private armed ships, as an auxiliary to the naval armament of the United States, so essential to supply the deficiencies of the navy upon emergencies, whilst it also serves the better to elucidate that branch of the pension system necessarily growing out of its operations, and paid by deducting TWO PER CENTUM as a privateer pension fund out of the *navy pension fund* accruing from the sale of prizes, &c. The act, in addition thereto, of the 27th January, 1813, is omitted, but may be referred to in the Statutes at Large.

With the same views as here expressed, the act "for the protection of the commerce of the United States against the Algerine cruizers" is also subjoined in full—being virtually a supplement to the *system of privateering*, which is so essential, on emergencies, as an *auxiliary* to our naval establishment.

CHAP. 430. An act concerning letters-of-marque, prizes, and prize goods.

APPROVED, JUNE 26, 1812.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States shall be, and he is hereby, authorized and empowered to revoke and annul, at pleasure, all letters-of-marque and reprisal which he shall or may at any time grant, pursuant to an act entitled "An act declaring war between the United Kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America and their territories."

SEC. 2. *And be it further enacted,* That all persons applying for letters-of-marque and reprisal, pursuant to the act aforesaid, shall state in writing the name, and a suitable description of the tonnage and force of the vessel, and the name and place of residence of each owner concerned therein, and the intended number of the crew; which statement shall be signed by the person or persons making such application, and filed with the Secretary of State, or shall be delivered to any other officer or person who shall be employed to deliver out such commissions, to be by him transmitted to the Secretary of State.

SEC. 3. *And be it further enacted,* That before any commission of letters-of-marque and reprisal shall be issued as aforesaid, the owner or owners of the ship or vessel for which the same shall be requested, and the commander thereof, for the time being, shall give bond to the United States, with at least two responsible sureties, not interested in such vessel, in the penal sum of five thousand dollars; or if such vessel be provided with more than one hundred and fifty men, then in the penal sum of ten thousand dollars; with condition that the owners, officers, and crew, who shall be employed on board such commissioned vessel, shall and will observe the treaties and laws of the United States, and the instructions which shall be given them according to law for the regulation of

Again: when, upon the lapse of one year after these duties were transferred from the Navy Department to the War Department, by the 2d and 4th sections of the act of the 4th March, 1840, but to be executed under the joint direction of the Secretary of War and the Secretary of the Navy, it seems to have occurred, for the first time, to the then Commissioner of Pensions, to consult the Secretary of the Navy (alone), in a communication of the 19th April, 1841, on the subject of the administration of the navy pension laws, in relation to a specific case of a claim for pension by a person who had been employed in the naval service, rated as a "boy;" and also in another communication of the

their conduct; and will satisfy all damages and injuries which shall be done or committed contrary to the tenor thereof by such vessel, during her commission, and to deliver up the same when renoved by the President of the United States.

SEC. 4. *And be it further enacted*, That all captures and prizes of vessels and property shall be forfeited, and shall accrue to the owners, officers, and crews of the vessels by whom such captures and prizes shall be made; and, on due condemnation had, shall be distributed according to any written agreement which shall be made between them; and if there be no such agreement, then one moiety to the owners, and the other moiety to the officers and crew, to be distributed between the officers and crew as nearly as may be, according to the rules prescribed for the distribution of prize money by the act entitled "An act for the better government of the navy of the United States," passed the twenty-third day of April, one thousand eight hundred.

SEC. 5. *And be it further enacted*, That all vessels, goods, and effects, the property of any citizen of the United States, or of persons resident within or under the protection of the United States, or of persons permanently resident within and under the protection of any foreign prince, government, or State in amity with the United States, which shall have been captured by the enemy, and which shall be recaptured by vessels commissioned as aforesaid, shall be restored to the lawful owners, upon payment by them, respectively, of a just and reasonable salvage, to be determined by the mutual agreement of the parties concerned, or by the decree of any court having competent jurisdiction, according to the nature of each case, agreeably to the provisions established by law. And such salvage shall be distributed among the owners, officers, and crews of the vessels commissioned as aforesaid, and making such recaptures, according to any written agreement which shall be between them; and in case of no such agreement, then in the same manner, and upon the same principles, heretofore provided in case of capture.

SEC. 6. *And be it further enacted*, That, before breaking bulk of any vessel which shall be captured as aforesaid, or other disposal or conversion thereof, or of any articles which shall be found on board the same, such captured vessel, goods, or effects shall be brought into some port of the United States, or into some port of a nation in amity with the United States, and shall be proceeded against, before a competent tribunal, and, after condemnation and forfeiture thereof, shall belong to the owners and captors thereof, to be distributed as aforesaid. And in the case of all captured vessels, goods, and effects, which shall be brought within the jurisdiction of the United States, the district courts of the United States shall have exclusive original cognizance thereof, as in civil causes of admiralty and maritime jurisdiction; and the said courts, or the courts, being courts of the United States, into which such cases shall be removed, and in which they shall be finally decided, shall and may decree restitution, in whole or in part, when the capture shall have been made without just cause. And if made without probable cause, or otherwise unreasonably, may order and decree damages and costs to the party injured, and for which the owners and commanders of the vessels making such captures, and also the vessels, shall be liable.

SEC. 7. *And be it further enacted*, That all prisoners found on board any captured vessels, or on board any recaptured vessels, shall be reported to the collector of the port in the United States in which they shall first arrive, and shall be delivered into the custody of the marshal of the district, or some civil or military officer of the United States, or of any State in or near such port, who shall take charge of their safekeeping and support, at the expense of the United States.

SEC. 8. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to establish and order suitable instructions for the better governing and directing the conduct of the vessels so commissioned, their officers and crews, copies of which shall be delivered by the collectors of the customs to the commanders, when they shall give bond as aforesaid.

19th August, of the same year 1841, raising the question whether an invalid of the navy may receive a pension whilst *in the service*, it manifestly had not occurred to him, in either case, that any official *form of declaration* was necessary in order to bring the claim of an invalid before the office for adjudication. Nor yet did it occur to him on another occasion, more than twelve months thereafter, when, on the 22d November, 1842, he presented to the Secretary of the Navy *two forms* for his approval, one, for "a surgeon's certificate in an invalid case," and the other, for "a certificate of a commanding officer in an invalid case." Now it happens that these very forms, or their equivalents,

SEC. 9. *And be it further enacted*, That a bounty shall be paid by the United States of twenty dollars for each person on board any armed ship or vessel belonging to the enemy, at the commencement of the engagement, which shall be burnt, sunk, or destroyed by any vessel commissioned as aforesaid, which shall be of equal or inferior force, the same to be divided as in other cases of prize money.

SEC. 10. *And be it further enacted*, That the commanding officer of every vessel having a commission, or letters-of-marque and reprisal, during the present hostilities between the United States and Great Britain, shall keep a regular journal, containing a true and exact account of his daily transactions and proceedings with such vessel and the crew thereof; and the ports and places he shall put into or cast anchor in, the time of his stay there, and the cause thereof; the prizes he shall take; the nature and probable value of such prizes; the times and places when and where taken; and how and in what manner he shall dispose of the same; the ships or vessels he shall fall in with; the times and places when and where he shall meet with them, and his observations and remarks thereon; also of whatever else shall occur to him or any of his officers or mariners, or be discovered and found out by examination or conference with any mariners or passengers of or in any other ships and vessels, or by any other ways or means whatsoever, touching or concerning the fleets, vessels, and forces of the enemy, their posts and places of station and destination, strength, numbers, intents, and designs. And such commanding officer shall, immediately on his arrival in any port of the United States, or the Territories thereof, from or during the continuance of any voyage or cruise, produce his commission for such vessel, and deliver up such journal so kept as aforesaid, signed with his proper name and handwriting, to the collector or other chief officer of the customs, at or nearest to such port; the truth of which journal shall be verified by the oath of the commanding officers for the time being; and such collector, or other chief officer of the customs, shall, immediately on the arrival of such vessel, order the proper officer of the customs to go on board and take an account of the officers and men, the number and nature of the guns, and whatever else shall occur to him, on examination, material to be known; and no such vessel shall be permitted to sail out of port again, after such arrival, until such journal shall have been delivered up, and a certificate obtained, under the hand of such collector or other chief officer of the customs, that she is manned and armed according to her commission; and upon delivery of such certificate, any former certificate of a like nature, which shall have been obtained by the commander of such vessel, shall be delivered up.

SEC. 11. *And be it further enacted*, That captains and commanders of vessels having letters-of-marque, in case of falling in with any of the vessels of war or revenue of the United States, shall produce to the commanding officers of such vessels their journals, commissions, and certificates as aforesaid; and the commanding officers of such ships of war or revenue shall make, respectively, a memorandum in such journal of the day on which it was so produced to him, and shall subscribe his name to it; and in case such vessel, having letters-of-marque as aforesaid, shall put into any foreign port where there is an American consul, or other public agent of the United States, the commander shall produce his journal, commission, and certificate aforesaid, to such consul or agent, who may go on board and number the officers and crew, and examine the guns, and if the same shall not correspond with the commission and certificate, respectively, such consul or agent shall forthwith communicate the same to the Secretary of Navy.

SEC. 12. *And be it further enacted*, That the commanders of vessels having letters-of-marque and reprisal as aforesaid, neglecting to keep a journal as aforesaid, or wilfully making fraudulent entries therein, or obliterating any material transactions therein, where the interest of the United States is in any manner concerned, or refusing to produce such journal, commission, or certificate, pursuant to the preceding section of this act, then, and in such cases, the commissions or letters-of-marque and reprisal of such vessels shall be

had always constituted the requisite basis for a declaration on which invalid claims should be founded. But whether the facts those certificates represent were brought before the State authorities by a regular "declaration" of the invalid, or not, whilst they were authorized and required to prepare these claims, the lists of them having been made up and transmitted to the federal government by legal authority, obviated the necessity of going behind them to ascertain the *forms* upon which they were adjudicated. But, from the time that these channels of presenting these claims to the Department and to Congress fully made up, had actually ceased, with all the forms of their original presentation and

liable to be revoked; and such commanders, respectively, shall forfeit, for every such offence, the sum of one thousand dollars; one moiety thereof to the use of the United States, and the other to the informer.

SEC. 13. *And be it further enacted*, That the owners or commanders of vessels having letters-of-marque and reprisal as aforesaid, who shall violate any of the acts of Congress for the collection of the revenue of the United States and for the prevention of smuggling, shall forfeit the commission, or letters-of-marque and reprisal, and they, and the vessels owned or commanded by them, shall be liable to all the penalties and forfeitures attaching to merchant vessels in like cases.

SEC. 14. *And be it further enacted*, That so much of any act or acts as prohibits the importation of goods, wares, and merchandize, of the growth, produce, and manufacture, of the dominions, colonies, and dependencies, of the United Kingdom of Great Britain and Ireland, or of goods, wares, and merchandize, imported from the dominions, colonies, and dependencies, of the United Kingdom of Great Britain and Ireland, be, and the same is hereby, repealed, so far as the same may prohibit the importation or introduction into the United States, and their territories, of such goods, wares, and merchandize, as may be captured from the enemy and made good and lawful prize of war, either by vessels having letters-of-marque and reprisal, or by the vessels of war and revenue of the United States. And all such goods, wares, and merchandize, when imported or brought into the United States, or their territories, shall pay the same duties, to be secured and collected in the same manner, and under the same regulations, as the like goods, wares, and merchandize, if imported in vessels of the United States from any foreign port or place, in the ordinary course of trade, are now, or may at the time be, liable to pay.

SEC. 15. *And be it further enacted*, That all offences committed by any officer or seaman on board any such vessel having letters-of-marque and reprisal, during the present hostilities against Great Britain, shall be tried and punished in such manner as the like offences are or may be tried and punished when committed by any person belonging to the public ships of war of the United States: *Provided, always*, That all offenders who shall be accused of such crimes as are cognizable by a court martial, shall be confined on board the vessel in which such offence is alleged to have been committed, until her arrival at some port in the United States, or their territories; or until she shall meet with one or more of the public armed vessels of the United States abroad, the officers whereof shall be sufficient to make a court martial for the trial of the accused; and upon application made, by the commander of such vessel, on board of which the offence is alleged to have been committed, to the Secretary of the Navy, or to the commander or senior officer of the ship or ships of war of the United States abroad as aforesaid, the Secretary of the Navy, or such commander or officer, is hereby authorized to order a court martial of the officers of the navy of the United States, for the trial of the accused, who shall be tried by the said court.

SEC. 16. *And be it further enacted*, That an act, entitled "An act laying an embargo on all the ships and vessels in the ports and harbors of the United States, for a limited time," passed the fourth day of April, one thousand eight hundred and twelve; and an act, entitled "An act to prohibit the exportation of specie, goods, wares, and merchandize, for a limited time," passed April fourteenth, one thousand eight hundred and twelve, so far as they relate to ships and vessels having commissions or letters-of-marque and reprisals, or sailing under the same, be, and they hereby are, respectively, repealed.

SEC. 17. *And be it further enacted*, That two per centum on the nett amount (after deducting all charges and expenditures) of the prize money arising from captured vessels and cargoes, and on the nett amount of the salvage of vessels, and cargoes recaptured by the private armed vessels of the United States, shall be secured and paid over to the collector, or other chief officer of the customs, at the port or place in the United States at which such captured or recaptured vessels may arrive; or to the consul, or other public

adjudication by those authorities, thereby devolving those original duties on the Departments at Washington, it became necessary to prescribe those *forms and regulations* which, in all analogous cases, are deemed indispensable to introduce and sustain their pretensions to adjudication. To fill up these chasms, so far as they relate to the declarations for military, naval, and privateer invalids, the proper forms will be found in the SUPPLEMENT at the end of this volume, for the convenience of the parties concerned.

It should not be hastily judged that these strictures are hypercritical; for there has been abundant experience, in the Pension Office, of the embarrassments that are entailed

agent of the United States, residing at the port or place, not within the United States, at which such captured or recaptured vessels may arrive. And the moneys arising therefrom shall be held, and hereby is pledged by the government of the United States, as a fund for the support and maintenance of the widows and orphans of such persons as may be slain, and for the support and maintenance of such persons as may be wounded and disabled, on board of the private armed vessels of the United States, in any engagement with the enemy, to be assigned and distributed in such manner as shall hereafter by law be provided.

CHAP. 771. An act for the protection of the commerce of the United States against the Algerine cruisers.

APPROVED, MARCH 3, 1815.

Whereas the Dey of Algiers, on the coast of Barbary, has commenced a predatory warfare against the United States—

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That it shall be lawful fully to equip, officer, man, and employ, such of the armed vessels of the United States as may be judged requisite by the President of the United States for protecting effectually the commerce and seamen thereof on the Atlantic ocean, the Mediterranean, and adjoining seas.

SEC. 2. *And be it further enacted*, That it shall be lawful for the President of the United States to instruct the commanders of the respective public vessels aforesaid, to subdue, seize, and make prize of, all vessels, goods, and effects, of or belonging to the Dey of Algiers, or to his subjects, and to bring or send the same into port, to be proceeded against and distributed according to law; and, also, to cause to be done all such other acts of precaution or hostility, as the state of war will justify, and may, in his opinion, require.

SEC. 3. *And be it further enacted*, That, on the application of the owners of *private armed vessels* of the United States, the President of the United States may grant them special commissions, in the form which he shall direct, under the seal of the United States; and such private armed vessels, when so commissioned, shall have the like authority for subduing, seizing, taking, and bringing into port, any Algerine vessel, goods, or effects, as the beforementioned public armed vessels may by law have; and shall therein be subject to the instructions which may be given by the President of the United States for the regulation of their conduct; and their commissions shall be revocable at his pleasure: *Provided*, That before any commission shall be granted as aforesaid, the owner or owners of the vessels for which the same may be requested, and the commander thereof for the time being, shall give bond to the United States, with at least two responsible sureties, not interested in such vessel, in the penal sum of seven thousand dollars, or, if such vessel be provided with more than one hundred and fifty men, in the penal sum of fourteen thousand dollars, with condition for observing the treaties and laws of the United States, and the instructions which may be given as aforesaid, and also for satisfying all damages and injuries which shall be done contrary to the tenor thereof, by such commissioned vessel, and for delivering up the commission when revoked by the President of the United States.

SEC. 4. *And be it further enacted*, That any Algerine vessel, goods, or effects, which may be so captured and brought into port, by any private armed vessel of the United States, duly commissioned as aforesaid, may be adjudged good prize, and thereupon shall accrue to the owners, and officers, and men, of the capturing vessel, and shall be distributed according to the agreement which shall have been made between them, or, in failure of such agreement, according to the discretion of the court having cognizance of the capture.

upon all parties, for want of these guides, and the more particularly so since the frequency of changes of the ministerial officers or clerks engaged in the discharge of those duties has left the new incumbents greatly at a loss for the first steps to be taken with the applications, (frequently by personal presentation and verbal statements, without certificate or other document of any sort,) by invalids, military, naval, marine, and privateer. Moreover, it would appear to us a work but half done, when the laws have authorized claims upon the government, if those who are charged with the administration of those laws omit to inform those so entitled, and promulgate the proper *forms* and *regulations* for realizing those claims. This neglect, heretofore so prevalent in the Pension Office, is the chief cause that has given rise to the hundreds, nay thousands of agents, otherwise unnecessary, to prosecute these claims, whereby the rightful claimants, on an average, sacrifice from twenty-five to fifty per cent of their just dues, to fill the pockets of those who might be better employed in adding to the common stock of national prosperity, instead of consuming that which is already in store, because we do not make the equitable disposition of it without their *superfluous offices*.—(See the *instructions and regulations of Secretaries Cass, Poinsett, Ewing, and Stuart, appendix, pp. 631–32.*)

SECOND.—OF GRATUITOUS PENSIONS.

Although land bounties were, in fact, a conception of our military policy of nearly two years prior date to that of gratuitous pensions, it would be doing great violence to the rules of analogy to take up the review of our bounty land system on that account, before making a survey of gratuitous pensions, properly so called. Truly, they are both *gratuitous*, in contradistinction to the positive claims of invalids to an *equitable remuneration* or equivalent for the disabilities they incur in the public service—disqualifying them in different degrees for a livelihood thereafter. But gratuitous pensions (to widows and orphans at least) are more closely allied to invalid pensions, as emanating from them, simply by the transfer or continuance of the same amount of pay after the death of the invalid, though nominally for a limited time, to his widow or orphan children, than are those land bounties which seemed to have been established at first as a gratuity *per se*, and was not for a long time regarded even as a remote branch of the pension system, as it is now considered in its enlarged sense, since the execution of the bounty land laws was transferred to, and incorporated with that of the pension laws proper, in the same office. We shall, therefore, postpone the review of these laws as part of the pension system, until we have made a brief review of those relating to gratuitous pensions.

Instead of the two heads, under which it has been deemed expedient, for brevity and perspicuity, to divide invalid pensions, respective of the mere periods of time, as during the revolution and since the revolution, in which the disabilities occurred, though not entirely irrespective of the distinction between military and naval disabilities, (including those of marines and privateers, militia and volunteers, or other State corps,) it is judged to be called for by various considerations equally conducive to perspicuity and brevity, to dispose of the enormous class of *gratuitous pensions* under other heads, according to the distinctive characteristics which other circumstances and contingencies arising out of the policy of the government, have imposed upon them, though still not irrespective of those other distinctions above cited, in the cases to which they may apply. The heads which seem to us as promising best to serve the purpose we have in view, of elucidating the policy of our pension system, are the three following:

1st. *The gratuitous pensions granted or tendered, by general provisions of law, to officers of the army, in the first instance, and afterwards extended to the naval service, &c.*

2d. *The gratuitous pensions granted by special or private acts, to individuals (or their representatives) for eminent services, not embraced in the general provisions of law, as the foregoing.*

3d. *The gratuitous pensions granted to the widows and orphans of invalids, and persons slain in battle, or who have died of disabilities incurred in the military or naval service.*

Although the class of gratuitous pensioners be vastly more numerous than the class of invalid pensioners, particularly those embraced under the third division just described, we do not find the same occasion to dilate upon the contingencies connected with the administration of their claims. We shall therefore do but little more than call attention to the principal acts providing for the beneficiaries of the nation's gratuities, and advert briefly to the policy of the government in extending its munificence so liberally in this way.

1. *Of the gratuitous pensions tendered by general provisions of law, &c.*—Gratuitous pensions were tendered, and promised to commissioned officers only, who would enter and continue in the army of the revolution to the end of the war; being an extra allowance of *half pay* for *seven years* after the war, as an additional inducement over and above the ordinary pay and emoluments of the army, for their continuance in the service throughout the anticipated straits of the revolution, a policy which it has not been found necessary to resort to in subsequent wars:—(see *resolution of the 15th May, 1778*, [2,] p. 3;) the same was afterwards extended to the same officers of the army for life:—(see *resolution of the 21st October, 1780*, [7,] p. 7;) also, certain gratuitous allowances as pensions were granted, for life, to officers of the hospital department and medical staff of the revolution:—(see *resolution of the 17th January, 1781*, [8,] p. 7;) and the same, respectively, for life, under the aforesaid resolutions, were *changed to five years full pay*, called "*COMMUTATION*," at the option of those who thought proper to accept it.—(See *the resolution of the 22d March, 1783*.) And again, the same *half pay for life*, or *commutation full pay for five years*, at the election of the parties, were affirmed, and extended to commissioned officers *retiring as supernumeraries* under former resolves.—(See *resolution of the 8th March, 1785*, [14,] p. 10.) And at an interval of more than thirty years, gratuitous pensions were granted and extended, to all commissioned officers of the army and navy, and to non-commissioned officers, musicians, soldiers, seamen, and marines, and also to officers of the hospital department and medical staff, of the revolutionary war, who were then *living* and in *INDIGENT CIRCUMSTANCES*, that is, at the time of the passage of the act:—(see *the act of the 18th March, 1818*, [65,] p. 119;) which said act was afterwards amended by the acts of the 1st May, 1820, and 1st March, 1823, and subsequently modified by other acts and parts of acts providing for the same class of indigent survivors of the revolution standing in need of the bounty of their country. And finally, *all surviving officers of the army and navy, of the revolution, with the non-commissioned officers, musicians, soldiers, seamen, and marines, were granted full pay for life*, by the act of the 7th June, 1832, [129,] p. 161; which act has been variously modified, and extended to widows, by subsequent acts, as will be presently noticed, with others, under the appropriate head of "*gratuitous pensions to widows*," &c.

2. *Of gratuitous pensions granted by special acts to individuals for eminent services, &c.*—It is well known that it constituted a conspicuous part of the policy of the United States to bestow gratuitous pensions on eminent worthies of the revolution, foreigners and others, not actually forming part, in all instances, of the military or naval service proper; and yet, many of those who were in either service, or their heirs, received honorary pensions by private acts, independent of the general provisions of law applica-

ble to those embraced under the *foregoing division*, but which did not extend beyond revolutionary services. Some special provisions, however, of this kind of gratuity, have been in remuneration of distinguished exploits since the revolution. The illustrations of this part of the policy of our pension system, consisting chiefly of private acts, did not receive so much attention in the body of this compilation, as should have been bestowed on them.*

*To supply the deficiency above alluded to, in some degree, and to aid the attempt at such general illustration here proposed, we subjoin the acts in behalf of Frederick William de Steuben; the sons of Warren and Mercer; (see [24.] p. 40, for that in behalf of the heirs of De Neuville;) the daughters of Count De Grasse; and Milly, an Indian woman of the Creek nation, truly the second Pocahontas. The inquirer can pursue the illustrations of this policy in other instances, which are very rare, in the reward of modern prowess and patriotism.

CHAP. 43. An act for finally adjusting and satisfying the claims of Frederick William de Steuben.

APPROVED JUNE 4, 1790.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in order to make full and adequate compensation to Frederick William de Steuben, for the sacrifices and eminent services made and rendered to the United States, during the late war, there be paid to the said Frederick William de Steuben, an annuity of two thousand five hundred dollars, during life, to commence on the first day of January last; to be paid in quarterly payments, at the treasury of the United States; which said annuity shall be considered in full discharge of all claims and demands whatever of the said Frederick William de Steuben against the United States.

CHAP. 173. An act providing an annual allowance for the education of Hugh Mercer.

APPROVED, MARCH 2, 1793.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the annual allowance to be made for the education of Hugh Mercer, son of the late General Mercer, pursuant to the resolution of the former congress, of the date of the eighth of April, one thousand seven hundred and seventy-seven,* shall be four hundred dollars, from the time for which he has been last paid, until his education shall be finished, or he shall arrive at the age of twenty-one years. And that the comptroller of the treasury be authorized to revise and settle the account of the said Hugh Mercer, for his pension to the present time; the balance of which, as also the annual allowances aforesaid, as they shall become due, shall be paid to his guardian, at the treasury.

CHAP. 20. An act authorizing the payment of certain sums of money to the daughters of the late Count de Grasse.

APPROVED, JANUARY 15, 1798.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in consideration of the important services rendered to the United States by the late Count de Grasse, there be paid, annually in quarter payments, during five years from the time of passing this act, out of any moneys in the treasury not otherwise appropriated, the sum of four hundred dollars to each of the four daughters of the said Count de Grasse, namely, Amelia de Grasse, Adelaide de Grasse, Melanie de Grasse, and Silvie de Grasse, if they shall, respectively, so long live.

CHAP. 154. An act granting a pension to "Milly," an Indian woman of the Creek nation.

APPROVED, JUNE 17, 1844.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is

*In Congress, April 8, 1777: *Resolved*, That the eldest son of General Warren, and the youngest son of General Mercer, be educated, from this time, at the expense of the United States.

3. *Of gratuitous pensions to widows and orphans of invalids, &c.*—As we have just said in our first remarks under this article on gratuitous pensions, those that are granted to widows and orphans of persons slain in battle, or of invalids who have died of disability incurred in the line of duty, are most nearly allied to invalid pensions, as emanating from them, though not identical with them; and this remark applies with equal justice to the pensions of widows and orphans of officers of either the military or the naval service, although not so early extended to the latter as the former. Indeed, widows and orphans, being the natural and civil dependents of their husbands and fathers whilst living, might therefore be considered as justly entitled to the continuance, nay the inheritance, of the right, as a *vested right*, of pension, at the death of their said natural and civil protectors. But, inasmuch as they were not identical with the parties disabled, nor considered as the heirs or inheritors of the vested right of pension, and as it was deemed to require the action of Congress to recognize their right, and to prescribe at their option the amount of pension they might award them, such pensions could not be regarded in any other light than gratuities, as we have styled those of the other two foregoing divisions, which, although gratuitous, were based on equally equitable grounds. Accordingly, at a somewhat advanced period of the revolution, the same amount of *half pay* that had been promised but two years before, to commissioned officers who should continue in the army to the end of the war, was, for the like term of *seven years*, granted to the widows and orphans of those officers who had died, or might die, of wounds received in the service.—(See the resolution of August 24th, 1780, p. 6.) And to obviate all difficulty in securing the payment of said pensions to certain widows, the 1st section of the act of the 27th March, 1792, p. 24, made ample provision to insure its being done. The like provision of *five years half pay* was promised two years thereafter, to the widows and children of commissioned officers of the army who might die of wounds they might receive in the service that might ensue under the provisions of the act of the 5th March, 1792, (p. 22,) making more effectual provision for the protection of the frontier of the United States.—(See the act of the 7th June, 1794, p. 29.) And after this period the like *half pay* was, from time to time, gradually extended, for *five years*, to the widows and children of militia officers, (see act of 14th March, 1798, p. 43;) and then to the widows and children of officers and soldiers of volunteers and militia, who died of wounds received in the campaign of the Wabash, (see act of 10th April, 1812, p. 83;) until at length the principle of *equal right* embraced the widows and orphans of officers and soldiers of the militia, rangers, seafensibles, and volunteers, as also the widows and orphans of non-commissioned officers, musicians, and privates of the regular army, who died or were killed in the late war of 1812.—(See the acts of the 2d August, 1813, p. 96; the 16th April, 1816, p. 103; and the 4th July, 1836, p. 319.) The particulars above alluded to, in all respects, and in regard to the widows and orphans of those who incurred like disability in the naval, marine, and privateer service of the Uni-

hereby authorized and directed to pay to Milly, an Indian woman of the Creek nation, and a daughter of the prophet Francis, a pension at the rate of ninety-six dollars per annum, payable semi-annually during her natural life, as a testimonial of the gratitude and bounty of the United States for the humanity displayed by her in the war of one thousand eight hundred and seventeen, and one thousand eight hundred and eighteen, in saving the life of an American citizen, who was a prisoner in the hands of her people and about to be put to death by them; the said pension to commence and take effect from the fourth day of September, one thousand eight hundred and forty-three.

Sec. 2. And be it further enacted, That the Secretary of War be, and he is hereby authorized and directed to procure, and transmit to the said Milly, a medal with appropriate devices impressed thereon, of the value of not exceeding twenty dollars, as an additional testimonial of the gratitude of the United States.

ted States, may be more minutely referred to, by aid of the analytical tables appended to this introduction, and the Alphabetical Index at the end of the volume.

More need not be said here in relation to the subject of gratuitous pensions, except a passing remark contrasting the whole policy and equity of *gratuitous pensions* with that of *invalid pensions*, which cannot fail to strike the attention of all reflecting minds, viz: that, whilst justice to those who have been disabled in the service of their country, so as to impair their capacity to provide for their support, only entitled them to be pensioned in proportion to their disability, from as low as one-eighth part of their *half pay*, and proportionably more, through every gradation of increase to seven-eighths of their *half pay*, even for complete disability, the gratuitous pensions allowed to those who have not incurred any disability, is *never less than half-pay*, but very often is *full pay* for an ordinary life time, or a large sum in the lump.

Lists of army and navy pay, which govern the rates of invalid pensions in the respective branches of the service, and the pensions of widows and orphans based upon them, will be found inserted in the supplement, for the information of claimants. *Gratuitous pensions*, other than widows and orphans', are governed by the sense of justice in enacting specific laws for the benefit and relief of the claimants.

THIRD—OF BOUNTY LANDS.

Our bounty land system has been very irregular and immethodical in its provisions, and no less so in its administration. Whether we regard the variety of objects in view, the different departments and offices in which its details have been administered, or the diversity of its legal provisions, and the unavoidable contrariety of executive regulations in carrying the same into execution, we cannot but admire the success with which its great purposes are accomplished, notwithstanding; and that, too, without interference with the "donations" and "reservations," the "pre-emption rights" and the "public and private land sales" of our general land system at large. We cannot be expected to go into a survey of all these complications here, as it would involve a general survey of the whole land system of the United States, which has already been given in the work of the senior editor on the Treasury Department, (vol. 2, chap. 11, p. 192,) to which we must refer, and particularly to the matters embraced at pp. 195, 217, and 233, to the end. But to pass the subject over without some generalities approaching an imperfect outline, would hardly be excusable or consistent with the outline we have just been endeavoring to give of the pension system proper, to be more fully illustrated in the sequel of this introduction.

As a matter of mere policy, the master stroke of our wise and patriotic fathers of the revolution, was the "land bounty:" and the entire foundation of it, in its commencement, seems to have been a purely *political policy*. We allude to the policy of holding out the reward of land bounties to the foreigners and disaffected in the ranks of the enemy in our revolutionary struggle to make joint cause with us:* though, through the

*To illustrate the policy above adverted to, we subjoin the two leading measures of Congress awarding land bounties to foreigners, and Canadian refugees, though the whole subject was disposed of in the Department of State, before the General Land Office was established in the Treasury, in 1812, and, of course, before a bounty land bureau was established in the War Department in 1813, afterwards transferred to the Pension office, and, consequently, never reached this office in any form.

Bounties to foreign deserters.

IN CONGRESS—AUGUST 14, 1776.

The committee appointed to devise a plan for encouraging the Hessians, and other foreigners, to quit the British service, brought in a report, which was taken into consideration; whereupon Congress came to the following resolution:

lapse of time, this policy seems rather to have been inclined to take on the livery of party emulation—which shall excel the other in doing most to distribute the public lands among its political friends, many of whom had been in no engagement in the interminable Indian outbreaks and petty disturbances, called wars, from the times of which the memory and the record evidence reacheth not to the contrary. Grant that this is all right and proper in itself, particularly as it will make all wars popular hereafter; yet it is difficult to agree that it was judicious to drop the policy with which we set out, as it may be at least plausibly surmised, that if it had been continued in waging our second war with England, and the recent war with Mexico, we should have greatly abridged the periods of those wars, and have incurred less bloodshed and expenditure in every particular, not to

Whereas it has been the wise policy of these States to extend the protection of their laws to all those who should settle among them, of whatever nation or religion they might be, and to admit them to a participation of the benefits of civil and religious freedom, and the benevolence of this practice, as well as its salutary effects, have rendered it worthy of being continued in future times:

And whereas his Britannic majesty, in order to destroy our freedom and happiness, has commenced against us a cruel and unprovoked war; and unable to engage Britons sufficient to execute his sanguinary measures, has applied for aid to foreign princes, who are in the habit of selling the blood of their people for money, and from them has procured and transported hither considerable numbers of foreigners. And it is conceived that such foreigners, if apprized of the practice of these States, would choose to accept of lands, liberty, safety, and a communion of good laws and mild government, in a country where many of their friends and relations are already happily settled, rather than continue exposed to the toils and dangers of a long and bloody war; waged against a people guilty of no other crime than that of refusing to exchange freedom for slavery; and that they will do this the more especially, when they reflect that after they have violated every christian and moral precept, by invading and attempting to destroy those who have never injured them or their country, their only reward, if they escape death and captivity, will be a return to the despotism of their prince, to be by him again sold to do the drudgery of some other enemy to the rights of mankind.

And whereas the parliament of Great Britain have thought fit, by a late act, not only to invite our troops to desert our service, but to direct a compulsion of our people, taken at sea, to serve against their country:

Resolved, therefore, That these States will receive all such foreigners who shall leave the armies of his Britannic majesty in America, and shall choose to become members of any of these States; and they shall be protected in the free exercise of their respective religions, and be invested with the rights, privileges, and immunities of natives, as established by the laws of these States; and moreover, that this Congress will provide for every such person, fifty acres of unappropriated lands, in some of these States, to be held by him and his heirs in absolute property.

Resolved, That the foregoing resolution be committed to the committee who brought in the report, and that they be directed to have it translated into German, and to take proper measures to have it communicated to the foreign troops.

The committee to whom the letter from Colonel Wilson was referred, brought in a report, which was taken into consideration; whereupon Congress came to the following resolutions:

Congress proceeding to take into further consideration the expediency of inviting, from the service of his Britannic majesty, such foreigners as are engaged therein, and expecting that among the officers having command in the said foreign corps there may be many of liberal minds, possessing just sentiments of the rights of human nature, and of the inestimable value of freedom, who may be prompted to renounce so dishonorable a service by the feelings of humanity, and a just indignation at the office to which they are devoted by an infamous contract between two arbitrary sovereigns, and at the insult offered them, by compelling them to wage war against an innocent people who never offended them, nor the nation to which they belong, but are only contending for their just rights; and willing to tender to them also, as they had before done to the soldiers of their corps, a participation of the blessings of peace, liberty, property, and mild government:

Resolved, That this Congress will give to all such of the said foreign officers, as shall

say we could have bought out the Government of Mexico by distributing, *prospectively*—her own lands among her own oppressed and degraded soldiery.

The general subject of land bounties may be sub-divided under the following heads, viz :

1. *Bounty lands granted for revolutionary services, and other considerations connected with the revolutionary war.*

2. *Bounty lands granted to non-commissioned officers and soldiers for services in the war of 1812, in consideration of enlistments for five years, or during the war; including Canadian refugees, provided for after the war.*

3. *Bounty lands granted to non-commissioned officers, musicians, marines, &c., who served in the Mexican war.*

leave the armies of his Britannic majesty in America, and choose to become citizens of these States, unappropriated lands, in the following quantities and proportions, to them and their heirs in absolute dominion; to a colonel, 1,000 acres; to a lieutenant colonel, 800 acres; to a major, 600 acres; to a captain, 400 acres; to a lieutenant, 300 acres; to an ensign, 200 acres; to every non-commissioned, 100 acres; and to every other officer or person employed in the said foreign corps, and whose office or employment is not here specially named, in the like proportion to their rank or pay in the said corps; and moreover, that where any officers shall bring with them a number of the said foreign soldiers, this Congress, besides the lands before promised to the said officers and soldiers will give to such officers further rewards, proportioned to the numbers they shall bring over, and suited to the nature of their wants: provided, that such foreign officers or soldiers shall come over from the armies of his Britannic majesty, before these offers shall be recalled.

Provision for refugees from Canada and Nova Scotia.

IN CONGRESS—APRIL 23, 1783.

On the report of a committee, consisting of Mr. Osgood, Mr. Wilson, Mr. Madison, Mr. Carroll, and Mr. Williamson, to whom was referred a memorial of Brigadier General Hazen, in behalf of himself, officers, and others, Canadian refugees:

Resolved, That the memorialist be informed, that Congress retains a lively sense of the services the Canadian officers and men have rendered the United States, and that they are seriously disposed to reward them for their virtuous sufferings in the cause of liberty.

That they be further informed, that whenever Congress can consistently make grants of land, they will reward, in this way, as far as may be consistent, the officers, men, and others, refugees from Canada.

On the report of a committee, consisting of Mr. Ellery, Mr. Monroe, Mr. Read, Mr. Williamson, and Mr. Spaight, to whom was referred a petition of Jonathan Eddy, and other refugees of Nova Scotia.

Resolved, That Jonathan Eddy, and other refugees from Nova Scotia, on account of their attachment to the interest of the United States, be recommended to the humanity and particular attention of the several States in which they respectively reside; and that they be informed, that whenever Congress can consistently make grants of land, they will reward, in this way, as far as may be consistent, such refugees from Nova Scotia as may be disposed to live in the western country.

CHAP. 43. An act for the relief of the refugees from the British provinces of Canada and Nova Scotia.

APPROVED, APRIL 7, 1798.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, to satisfy the claims of certain persons claiming lands under the resolutions of Congress, of the twenty-third of April, one thousand seven hundred and eighty-three, and the thirteenth of April, one thousand seven hundred and eighty-five, as refugees from the British provinces of Canada and Nova Scotia, the Secretary of the Department of War be, and is hereby, authorized and directed, to give notice, in one or more of the public papers of each of the States of Vermont, Massachusetts, New York, New Hampshire, and Pennsylvania, to all persons hav-

4. *Bounty lands granted for services in various Indian wars, from the year 1790, and for services in the war of 1812, and the war with Mexico, not provided for under the second and third foregoing heads.*

We shall be as brief as practicable, consistently with perspicuity and method, in giving a mere synoptical reference to the different acts, and the rate of bounties they grant to the different grades, and durations of service, under these several heads.

1. *For revolutionary service, &c.*—By the resolution of 14th August, 1776, in retaliation of the invitation and compulsory measures of the British Government to induce our troops to desert our service, it was promised and promulgated, “that all foreigners who shall leave the service of his Britannic Majesty in America, and become members of any of these States, shall be protected in the free exercise of the rights, privileges, and immunities of the native citizens thereof; and “that this Congress will give to all

such claims under the said resolutions, to transmit to the War office, within two years after the passing of this act, a just and true account of their claims to the bounty of Congress.

SEC. 2. *And be it further enacted*, That no other persons shall be entitled to the benefit of the provisions of the act than those of the following descriptions, or their widows and heirs, viz: first, those heads of families, and single persons, not members of any such families, who were residents in one of the provinces aforesaid, prior to the fourth day of July, one thousand seven hundred and seventy-six, and who abandoned their settlements, in consequence of having given aid to the united colonies or States, in the revolutionary war against Great Britain, or with intention to give such aid, and continued in the United States, or in their service, during the said war, and did not return to reside in the dominions of the king of Great Britain, prior to the twenty-fifth of November, one thousand seven hundred and eighty-three. Secondly, the widows and heirs of all such persons as were actually residents, as aforesaid, and died within the United States, or in their service, during the said war; and, thirdly, all persons who were members of families at the time of their coming into the United States, and who, during the war, entered into their service.

SEC. 3. *And be it further enacted*, That the proof of the several circumstances necessary to entitle the applicants to the benefits of this act, may be taken before a judge of the supreme, or district, court of the United States, or a judge of the supreme or superior court, or the first justice or first judge of the court of common pleas, or county court of any State.

SEC. 4. *And be it further enacted*, That, at the expiration of fifteen months, from and after the passage of this act, and from time to time thereafter, it shall be the duty of the Secretary for the Department of War to lay such evidence of claims, as he may have received, before the Secretary and Comptroller of the Treasury; and, with them, proceed to examine the testimony, and give their judgment, what quantity of land ought to be allowed to the individual claimants, in proportion to the degree of their respective services, sacrifices, and sufferings, in consequence of their attachment to the cause of the United States; allowing, to those of the first class, a quantity not exceeding one thousand acres; and to the last class, a quantity not exceeding one hundred; making such intermediate classes as the resolutions aforesaid, and distributive justice, may, in their judgment, require; and make report thereof to Congress. And in case any such claimant shall have sustained such losses and sufferings, or performed such services for the United States, that he cannot justly be classed in any one general class, a separate report shall be made of his circumstances, together with the quantity of land that ought to be allowed him, having reference to the foregoing ratio: *Provided*, That in considering what compensation ought to be made by virtue of this act, all grants, except military grants, which may have been made by the United States, or individual States, shall be considered, as the just value thereof at the time the same were made, respectively, either in whole or in part, as the case may be, a satisfaction to those who may have received the same; *Provided, also*, That no claim under this law shall be assignable, until after report made to Congress, as aforesaid, and until the said lands be granted to the persons entitled to the benefit of this act.

SEC. 5. *Be it further enacted*, That all claims, in virtue of said resolutions of Congress, which shall not be exhibited as aforesaid, within the time by this act limited, shall forever thereafter be barred.

such foreign officers and soldiers, as shall leave the armies of his Britannic Majesty in America, and become citizens of these States, unappropriated lands in the following quantities and proportions, viz:—(*see note, p. xxviii.*)

To a Colonel.....	1,000 acres.	To a Lieutenant.....	300 acres.
To a Lieut. Colonel.....	850 "	To an Ensign.....	200 "
To a Major.....	600 "	To a non-commis'd officer..	100 "
To a Captain.....	400 "	And to all others in proportion, &c.	

And in pursuance of the resolutions of the 23d April, 1783, and the 7th April, 1798, lands were granted to Canadian and Nova Scotia refugees, distinguished into three classes, in the following proportions, viz:—(*see note, p. xxx.*)

1. To those of the first class, not exceeding 600 acres.
2. To those of the second class, according to prescribed rule.
3. To those of the third class, not exceeding 100 acres.

Under the several resolutions referred to below, officers and soldiers of the United States who served to the end of the war, were entitled to land bounty; and of those who never received the bounty during their lives, their representatives are entitled according to the subjoined rates:—(*see the resolutions of Sept. 16, 1776; Sept. 18, 1776; Aug. 12, 1780; Sept. 22, 1780; and Oct. 3, 1780; pp. 281-82;*) and for the forms of application, &c., (*see pp. 601-2-3.*)

To a Major General.....	1,100 acres.	To a Captain.....	300 acres.
To a Brigadier General.....	850 "	To a Lieutenant.....	200 "
To a Colonel.....	500 "	To an Ensign.....	150 "
To a Lieut. Colonel.....	450 "	To non-commis'd officers..	100 "
To a Major.....	400 "	To a soldier.....	100 "

To the Director of the Medical Department.....	850 acres.
To the Chief Physician and Purveyor.....	500 "
To Physicians, Surgeons, and Apothecaries.....	450 "
To Regimental Surgeons, and assistants to Purveyor and Apothecary	400 "
To Hospital and Regimental Surgeons' mates.....	300 "

2. *For the war of 1812, five years service, or during the war, &c.*—By the act of the 24th December, 1811, "for completing the existing military establishment," and by the act of 11th January, 1812, "to raise an additional military force, (the period of each of which acts, though commencing previously to the war, mainly transpired during the war,) also, by the act of the 20th January, 1813, "supplementary" to the act of December, aforesaid, each of the non-commissioned officers, musicians, and privates, who enlisted for "five years," or "for during the war," and were "honorably discharged," and "the heirs of those who died or were killed whilst in the service," were promised land bounty of one hundred and sixty acres.

By the sixth section of the act of the 6th February, 1812, "authorizing the acceptance of certain volunteer corps for twelve months," the heirs or representatives of such of said volunteers as died or were killed whilst in the service, were promised a bounty in land of one hundred and sixty acres.

But, strange to say, the "twelve months volunteers" who served out their engagements, and were discharged, were not entitled to bounty land, under the said act of the 6th of February, 1812, authorizing their enlistment.

And still stranger to say, the act of the 8th April, 1812, authorizing enlistments of men for "eighteen months," provided a bounty of sixteen dollars in money, but no bounty in land.

Nor did the act of the 29th January, 1813, "authorizing an additional force of

twenty regiments to be enlisted for *one year*," provide a bounty of either *money* or land for the men who enlisted for the said term.

The act of the 10th December, 1814, however, "*for making further provision for filling the ranks of the army*," promised the double bounty of 320 acres to each of the non-commissioned officers, musicians, and privates, who should *enlist and serve* in conformity with the provisions of said act; that is to say, who "*shall have obtained from the commanding officer a certificate that he had faithfully performed his duty, &c.*" (*For this act see the Supplement, page 642.*)

By the act of the 5th March, 1816, for granting bounties in land and extra pay to certain Canadian volunteers, the said volunteers were entitled to land in the following proportions respectively, viz :

To each Colonel.....	960 acres.	To each Subaltern Officer....	480 acres.
To each Major.....	800 "	To each Non-com'd. Officer,	
To each Captain.....	640 "	Musician, and Private.....	320 "

Also, to the Medical and other Staff, the like proportions, according to their rank.

But by the act of 3d March, 1817, amending the said act of 5th March, 1816, the bounties in land so promised, were reduced *one-half* : and the said amendatory act expired by its own limitation on the 3d March, 1818, and was never after revived.—(*See the Supplement, pp. 644, 645, 646, for the aforesaid acts of March 5, 1816, March 3, 1817, and March 27, 1818.*)

And, in order to make it the more manifest how the provisions of the act of the 28th September, 1850, (presently to be noticed,) retrovert upon and supply the preterminations of the aforesaid acts providing for the service of five years or during the war of 1812, it may well be assumed that, so far as the said act of 1850 provides for the commissioned officers, &c., who served in the said war during various periods less than five years, it is *supplementary to those acts*.

3. *For service in the war with Mexico, &c.*—By the 9th section of the act of the 11th February, 1847, "raising for a limited time an additional military force," 160 acres of land, or in lieu thereof scrip of \$100, bearing interest, was promised, under certain regulations and restrictions, to non-commissioned officers, musicians, and privates, who should enlist in the regular army, or in volunteer corps, to serve in the war with Mexico. And by sundry supplementary acts those provisions were variously modified and extended, viz : by the resolution of the 24th March, 1848, the act of the 27th May, 1848, the act of the 10th July, 1848, and the act of the 10th August, 1848—for the abstracts of which the Index of those items at page 701, might be consulted with advantage. And the act of the 28th September, 1850, so far as it makes provision for commissioned officers who served in the war with Mexico, may in like manner be considered supplementary to this act of the 11th February, 1847. Also the act of the 22d March, 1852, in authorising "*assignments*" of ALL military bounty land warrants, and admitting the time consumed in a soldier's travel to-and-fro to be taken into the computation of his term of service, may be regarded as supplementary to all previous acts whose provisions it enlarges.

4. *For services in various Indian wars, since 1790; in the war of 1812; and in the war with Mexico, &c.*—The 1st section of the act of the 28th September, 1850, provides bounty lands for the commissioned officers, &c., who served in the war of 1812, and in the war with Mexico, not provided for in the previous acts, at the rates of 160 acres, 80 acres, or 40 acres, according to their respective periods of service, from *one to nine months* or over, computing the time that may have been spent in captivity of the enemy, as part of their term of service. It also provides in like manner the same rates of bounty for the similar grades of the army or volunteers who served for like periods in any Indian wars, since

1790. And the act of the 22d March, 1852, in authorizing "assignments" of bounty land warrants issued under this as under all other acts, and admitting the time consumed in a soldier's travel *to-and-fro* to be taken into the computation of his term of service, may in like manner be regarded as supplementary to this act of the 28th September, 1850.

It would be presently seen, as may well be anticipated now, from the sketch just given under this head, how perfectly homogeneous to one and the same division in the Pension Office, are all the matters appertaining to military bounty lands; but that exposition is deferred for a future occasion, should it be desirable.

VIRGINIA MILITARY BOUNTY LANDS.

It would not be doing full and entire justice to the subject of Bounty Lands granted for military services in general, if we did not also say something of the Virginia military bounty lands, which form so conspicuous a portion of *federal legislation*, although not constituting any part of the duties of the bounty land division of the Pension Office—those claims, arising out of the promises of Virginia to the officers, &c., of her own State line and navy of the revolutionary war, being executed partly at the land office of Virginia, at Richmond, and partly at the General Land Office, at Washington, totally disconnected with the pension office proper. Hence the military bounty land warrants issued at Richmond, and assumed for location by the United States on the Virginia reservations, according to the terms of her "deed of cession," formed an entirely different class of warrants from those arising out of the claims of her revolutionary officers, &c. of the continental establishment, which, in common with those of officers, &c. of other States on the continental establishment, constituted that immense class of revolutionary bounty land claims of officers, &c. of the continental establishment, already referred to in summary under class "1. *For revolutionary services, &c.*"

A glance at the particular subject of the Virginia military bounty lands here, also strikes us as important on more accounts than the mere rehearsal of its origin and execution as part of the bounty land system in a general point of view. It would seem important for the suggestion it may possibly lead to, of making some provision for the like equitable claims for the revolutionary services of the troops, &c. of other States, whose legislatures had it not in their power to make such reservations in behalf of their State lines and navy, as had the far-famed mother of States, through the favor of royal munificence in her unstinted land grants from the Atlantic to the Pacific, extending four hundred miles on either coast, according to the original crown grants. Through the means of these original grants, Virginia had it in her power to make magnificent donations of her "vacant and unappropriated Western lands," with large reservations to redeem her promises to her own corps of the revolution, though her rightful tenure was jeopardized by the war, and was only confirmed by the joint revolutionary struggle and expenditure of blood and treasure of all the States in making final conquest of it. Why, then, should not the revolutionary corps of other State lines and navy, now that those of Virginia are nearly satisfied out of her vast reservations, receive some evidence of the nation's justice, whereunto, although no claims were actually set up by reservations out of the fruits of royal grants scantily bestowed, their claims in equity are just as substantial, and might now be very opportunely considered, when new accessions of public domain afford such ample opportunity for the General Government to do them this act of justice in making them *equal therein* to Virginia?

The order in which the several States consummated this great national object of ceding their respective territorial possessions beyond their respective limits, and the sameness of purpose for which it was done, may be seen stated in a consecutive and brief

manner in the second volume of the work on the Treasury, by the senior editor of this compilation, at pages 796-97, and '98. It will be perceived that New York led the way in setting this magnanimous example to her sister States, by a deed of cession of her "vacant and unappropriated lands" on the 1st March, 1781, in pursuance of the invitation of Congress addressed to all the States on the 6th September, 1780, and just three years before Virginia consummated the tender she had indeed proposed to Congress *two months in advance of New York*, but which was not then carried into effect by mutual agreement; and yet it was twenty years before that patriotic object was consummated by all the States having royal grants in their power to contribute to the federal domain.

The history of these "deeds of cession," by all the States having such lands at will, throws great light on the gradual *development and concentration* of the State sovereignties, of which copious extracts from the original documents themselves, dispersed on the journals of Congress, may be found embodied in the first volume of Bioren & Duane's edition of the laws of the United States, edited by JOHN B. COLVIX, Esq.* From these it would appear, that Virginia alone, in her "deed of cession," made reservations of land by which to fulfil her promises to the officers, &c. of her own State line and navy, the execution of which, according to the terms and conditions of the cession,

*The following extracts from the preliminaries to the deeds of cession by the State of New York, and the State of Virginia, will afford an interesting and instructive contrast—the one being *fervid* in its sentiments, and *conclusive* in its results, whilst the other, from the vast amount of domain ceded, and the reservations and conditions stipulated, have involved Congress in a course of almost interminable legislation, and the executive in official forms and proceeding of great complexity to execute those laws:

Cession from the State of New York.

JOURNALS OF CONGRESS, MARCH 1, 1781.

In pursuance of the act of the Legislature of the State of New York, read in Congress the 7th March, 1780, entitled "An act to facilitate the completion of the articles of confederation and perpetual union among the United States of America," and which is in the words following:

"Whereas nothing under Divine Providence, can more effectually contribute to the tranquillity and safety of the United States of America, than a federal alliance, on such liberal principles as will give satisfaction to its respective members; and whereas the articles of confederation and perpetual union, recommended by the honorable Congress of the United States of America, have not proved acceptable to all the States, it having been conceived that a portion of the waste and uncultivated territory, within the limits or claims of certain States ought to be appropriated as a common fund for the expenses of the war: and the people of this State of New York, being, on all occasions, disposed to manifest their regard for their sister States, and their earnest desire to promote the general interest and security; and more especially to accelerate the federal alliance, by removing, as far as it depends upon them, the before-mentioned impediment to its final accomplishment:

"Be it therefore enacted by the people of the State of New York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That it shall and may be lawful to and for the delegates of this State, in the honorable the Congress of the United States of America, or the major part of such of them as shall be assembled in Congress; and they, the said delegates, or the major part of them, so assembled, are hereby fully authorized and empowered, for and on behalf of this State, and by proper and authentic acts or instruments, to limit and restrict the boundaries of this State in the western parts thereof, by such line or lines, and in such manner and form as they shall judge to be expedient, either with respect to the jurisdiction, as well as the right or pre-emption of soil, or reserving the jurisdiction in part, or in the whole, over the lands which may be ceded or relinquished, with respect only to the right or pre-emption of the soil.

"And be it further enacted by the authority aforesaid, That the territory which may be ceded or relinquished, by virtue of this act, either with respect to the jurisdic-

has given occasion to an amount of legislation by Congress, that, if embodied, would be very little short of this volume in magnitude—a course of legislation still in progress, may be seen by the act of the 20th February, 1850, entitled “An act further to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office.”

With this glance at the double bounty land system, which the revolutionary corps of Virginia have enjoyed, we may leave the subject to the further contemplation of those from whom it may, perhaps, be reasonably anticipated that something of a parallel nature may yet be extended to the survivors and legal representatives of the like revolutionary corps of the other States, to set them off, and make them equal therein to those of Virginia.

tion as well as the right or pre-emption of soil, or the right or pre-emption of soil only, shall be and inure for the use and benefit of such of the United States as shall become members of the federal alliance of the said States, and for no other use or purpose whatsoever.

Cession from the State of Virginia.

IN CONGRESS, MARCH 1, 1784.

Whereas the General Assembly of Virginia, at their session, commencing on the 20th day of October, 1783, passed an act to authorize their delegates in Congress, to convey to the United States in Congress assembled, all the right of that Commonwealth to the territory Northwestward of the river Ohio: and whereas the delegates of the said Commonwealth have presented to Congress the form of a deed proposed to be executed pursuant to the said act, in the words following:

To all who shall see these presents, we, Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, the underwritten delegates for the Commonwealth of Virginia, in the Congress of the United States of America, send greeting:

Whereas the General Assembly of the Commonwealth of Virginia, at their sessions begun on the 20th day of October, 1783, passed an act entitled “An act to authorize the delegates of this State in Congress, to convey to the United States in Congress assembled, all the right of this Commonwealth to the territory Northwestward of the river Ohio,” in these words following, to wit:

“Whereas the Congress of the United States did, by their act of the sixth day of September, in the year one thousand seven hundred and eighty, recommend to the several States in the union, having claims to waste and unappropriated lands in the western country, a liberal cession to the United States, of a portion of their respective claims, for the common benefit of the union: and whereas this Commonwealth did, on the second day of January, in the year one thousand seven hundred and eighty-one, yield to the Congress of the United States, for the benefit of said States, all right, title, and claim, which the said Commonwealth had to the territory Northwest of the river Ohio, subject to the conditions annexed to the said act of cession. And whereas the United States in Congress assembled have, by their act of the thirteenth of September last, stipulated the terms on which they agree to accept the cession of this State, should the legislature approve thereof, which terms, although they do not come fully up to the propositions of this Commonwealth, are conceived, on the whole, to approach so nearly to them, as to induce this State to accept thereof, in full confidence, that Congress will, in justice to this State, for the liberal cession she hath made, earnestly press upon the other States claiming large tracts of waste and uncultivated territory, the propriety of making cessions equally liberal for the common benefit and support of the union.

“Be it enacted by the General Assembly, That it shall and may be lawful for the delegates of this State to the Congress of the United States, or such of them as shall be assembled in Congress, and the said delegates, or such of them so assembled, are hereby fully authorized and empowered, for and on behalf of this State, by proper deeds or instrument in writing, under their hands and seals, to convey, transfer, assign, and make over, unto the United States in Congress assembled, for the benefit of the said States, all right, title, and claim, as well of soil as jurisdiction, which this Commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being, to the Northwest of the river Ohio, subject to the terms and conditions con-

THE PUBLIC DEBT—"COMMUTATION CERTIFICATES" AND OTHER SECURITIES.

The frequent allusions, in the course of this compilation, to public securities, in satisfaction of pension claims, under the various denominations of "commutation certificates," issued by the superintendent of finance, (*see resolution 22d March, 1783*;) "Treasury certificates," issued by the Register of the Treasury, (*see act 11th August, 1790*;) "Loan Office certificates," issued by Commissioners of Loans in the several States; and other "certificates," (of public indebtedness,) issued by sundry commissioners for the adjustment of army accounts in the several States, &c., &c., render it desirable to give a brief outline of the act of the 4th August, 1790, "making provision for the debt of the United States," commonly called the "Funding act," which it is hoped will conduce to an examination of the act itself, for the better comprehension of it.

The preamble of said act is as follows:

"Whereas, justice, and the support of public credit, require that provision should be made for fulfilling the engagements of the United States, in respect to their *foreign debt*, and for *reducing* their *domestic debt*, upon equitable and satisfactory terms."

tained in the before recited act of Congress of the thirteenth day of September last; that is to say, upon condition that the territory so ceded shall be laid out and formed into States, containing a suitable extent of territory, not less than one hundred, nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit; and that the States so formed shall be distinct republican States, and admitted members of the federal union, having the same rights of sovereignty, freedom, and independence, as the other States.

"That the necessary and reasonable expenses incurred by this State, in subduing any British posts, or in maintaining forts and garrisons within, and for the defence, or in acquiring any part of, the territory so ceded or relinquished, shall be fully reimbursed by the United States; and that one commissioner shall be appointed by Congress, one by this Commonwealth, and another by those two commissioners, who, or a majority of them, shall be authorized and empowered to adjust and liquidate the account of the necessary and reasonable expenses incurred by this State, which they shall judge to be comprised within the intent and meaning of the act of Congress, of the tenth of October, one thousand seven hundred and eighty, respecting such expenses. That the French and Canadian inhabitants, and other settlers of the Kaskaskies, St. Vincent's, and the neighboring villages, who have professed themselves citizens of Virginia, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties. That a quantity not exceeding one hundred and fifty thousand acres of land, promised by this State, shall be allowed and granted to the then colonel, now general George Rogers Clarke, and to the officers and soldiers of his regiment, who marched with him when the post of Kaskaskies and St. Vincent's were reduced, and to the officers and soldiers that have been since incorporated into the said regiment, to be laid off in one tract, the length of which not to exceed double the breadth, in such place, on the Northwest side of the Ohio, as a majority of the officers shall choose, and to be afterwards divided among the said officers and soldiers in due proportion, according to the laws of Virginia. That in case the quantity of good land on the Southeast side of the Ohio, upon the waters of Cumberland river, and between the Green river and Tennessee river, which have been reserved by law for the Virginia troops, upon continental establishment, should, from the North Carolina line bearing in further upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops, in good lands, to be laid off between the rivers Scioto and Little Miami, on the Northwest side of the river Ohio, in such proportions as have been engaged to them by the laws of Virginia. That all the lands within the territory so ceded to the United States, and not reserved for, or appropriated to, any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use whatsoever: *Provided*, That the trust hereby reposed in the delegates of this State, shall not be executed unless three of them at least are present in Congress," &c. &c.

The *first* section of the act then reserves out of the proceeds of the revenue from ~~cas-~~ *taxes, &c.*, \$600,000 a year for the support of Government, and appropriates the *residue* for the payment of interest on *debts and loans*. The act then proceeds thus:

"And as new loans are, and will be necessary for the payment of the aforesaid *arrears of interest*, and the *instalments* of the principal of the said foreign debt, due and growing due, and may also be found expedient in effecting an entire alteration in the state of the same."

Wherefore, the *second* section authorizes the President to cause \$12,000,000 to be borrowed, *part* to pay arrears and instalments of the *foreign debt*; and to make other contracts relating to the FOREIGN DEBT. The act then proceeds in relation to the ~~DOMESTIC~~ DEBT, thus:

"And whereas it is desirable to adapt the nature of the provision to be made for the *domestic debt* to the present circumstances of the United States, as far as it shall be found practicable, consistently with good faith and the rights of the creditors, which ~~can~~ only be done by a *voluntary loan* on their part."

The *third* section then authorizes a loan to be proposed to the full amount of the "*domestic debt*," by opening books for receiving subscriptions, by a Commissioner of Loans to be appointed in each of the States; and that the sums which shall be subscribed thereto, be payable in "certificates" issued for the said debt according to their specie value; which said certificates are designated and described as follows:

Description of certificates receivable for sums subscribed:

- "1. The 'certificates' issued by the Register of the Treasury.
- "2. Those issued by the Commissioners of Loans in the several States—including 'certificates' given pursuant to the act of Congress of the 2d January, 1779, for *bills of credit* of the several emissions of the 20th May, 1777, and of the 11th April, 1778.
- "3. Those issued by the Commissioners for the adjustment of the accounts of the quartermaster, commissary, hospital, clothing, and marine departments.
- "4. Those issued by the Commissioners for the adjustment of accounts in the respective States.
- "5. Those issued by the late and present paymaster general, or commissioner of army accounts.
- "6. Those issued for the payment of *interest*, commonly called indents of interest.
- "7. And the 'bills of credit' issued by the authority of the United States in Congress assembled, at the rate of 100 in the said bills for one dollar in specie."

And then the *fourth* section designates and describes the two new "certificates" which the subscribers to the said loans shall be entitled to receive in lieu of the aforesaid *certificates and bills of credit*, viz: One of which to express the indebtedness of the United States to the holder, in the sum of *two-thirds* of the amount subscribed, and to bear interest of *six* per cent., payable quarter yearly, &c.; the other "certificate" to express the indebtedness of the United States to the holder thereof in the sum of *one-third* the amount so subscribed and paid, and to bear interest of *six* per cent., payable quarter yearly, &c. But, for the *certificates* for payment of *interest*, called "indents of interest," which may be subscribed, the subscriber shall be entitled to a new "certificate" for the amount subscribed, bearing interest of *three* per cent., payable quarter yearly, &c.

And the said act further provides, that, as it may happen that some of the creditors of the United States may not think proper to become subscribers to the said loan, nothing in this act contained shall be construed to alter, abridge, or impair their rights, or the contracts upon which their respective claims are founded, &c.

And the said act, in the *thirteenth* section, authorizes a loan to the amount of \$21,500,000, by subscriptions to be received at the same times and places, by the Commissioners of Loans: And provides that the sums which shall be subscribed shall be payable in the *principal and interest* of "CERTIFICATES" or "NOTES" which were issued by the several States, before the 1st of January, 1790, as acknowledgements of debts by

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them owing, &c. And that said "certificates" or evidences of State debts to be subscribed shall not exceed the following proportions, viz :

"In certificates of New Hampshire.....	\$300,000
"In those of Massachusetts.....	4,000,000
"In those of Rhode Island.....	200,000
"In those of Connecticut.....	1,600,000
"In those of New York.....	1,200,000
"In those of New Jersey.....	800,000
"In those of Pennsylvania.....	2,200,000
"In those of Delaware.....	200,000
"In those of Maryland.....	800,000
"In those of Virginia.....	3,500,000
"In those of North Carolina.....	2,400,000
"In those of South Carolina.....	4,000,000
"In those of Georgia.....	300,000 "

But it further provides that the certificates of said states, so receivable, must have been issued for no other considerations than compensations and expenditures for services or supplies towards the prosecution of the revolutionary war, or the defence of some part of the United States during said war. And it also provides, in like manner as aforesaid, for the issue of "CERTIFICATES," in lieu thereof, bearing six per cent., and *three* per cent., payable quarter yearly, &c. &c.

Such was the beautiful *fiscal device* of the funding system which is substantially but another form of "commutation," by which the evidences of our "foreign debt," of our "indebtedness to individuals," and of the "debts of the several States," were bought up at their estimated value in specie, and re-issued in Government securities bearing interest payable quarter yearly, with the privilege of their redemption within certain periods—*as being probably more satisfactory to claimants than the former precarious state of their respective claims; and so it proved to be, with the double result of "sustaining the public credit."*

It is to be regretted, however, that the original losers by the "bills of credit" issued by the authority of the Old Congress, at the rate of "100 in said bills for one dollar in specie," when our resources were low, have never received some atonement since we have been most prosperous. But it may not yet be too late to take the subject under favorable consideration in behalf of their legal representatives, since our national prosperity has made it difficult to devise the ways and means of expending our surplus of revenue, and our immeasurable accession of waste and unappropriated domain.

MILITARY AND NAVY ROLLS.

The following is an outline of the locations of all the military and navy rolls now in existence in the different executive offices at Washington, necessary to be consulted to ascertain the best evidence of service, in deciding on claims for bounty lands, in the absence of regular discharges. Of the early portions of those rolls in each branch of the service, great deficiencies exist in consequence of their destruction by the conflagration of the War Department in 1814, and of the Treasury Department in 1833.*

* Where it occurs that there is no discharge given, or, that at some period after the service had ceased, a certificate in lieu of a discharge is given, the estimate of the duration of service must be established by the rolls; but where the rolls are destroyed, or do not give the facts, then the duration of service must be ascertained by evidence of living witnesses, &c., or some other credible evidence. See Decisions 9th and 13th September, 1850, page 532, No. 100 and 102, also Circular 20th March, 1851, item 8, page 589, No. 25—the liberal spirit of which is, to admit the best credible testimony that can be offered, in the absence of rolls of which a great portion has been destroyed by fire, and of discharges which have been lost, destroyed, or never received.

1. *Rolls in the Adjutant General's Office.*

1. Rolls of all commissioned officers in the regular army—except those that were consumed in the conflagration of the War Department in 1814.

2. Rolls of all enlisted men in the regular army *since* the peace of 17th February, 1815.

3. Rolls of volunteers and militia for the Mexican war, from 24th April, 1846, to July 4th, 1848, (and partially in the Pension Office.)*

4. Rolls of all enlisted men of the ten additional regiments of the army, (embracing 3d dragoons, and 9th to 16th infantry): (and partially in the Pension Office.)

2. *Rolls in the Second Auditor's Office.*

1. Rolls of volunteers and militia engaged in the Seminole War, from the 20th November, 1817, to the 31st October, 1818.

2. Rolls of volunteers and militia engaged in the Black Hawk war, from the 26th April, 1832, to the 30th September, 1832.

3. Rolls of volunteers and militia engaged in the Florida war, from the 28th December, 1835, to the 14th August, 1842.

4. Rolls of volunteers and militia engaged in the Creek War, from the 5th May, 1836, to the 30th September, 1837.

5. Duplicates of all military rolls in the Adjutant General's Office are partially here, but should be complete in this (the 2d Auditor's) office—except those that were consumed in the conflagration of the War Department in 1814.

3. *Rolls in the Third Auditor's Office.*

1. Rolls of all enlisted men in the regular army prior to the peace of the 17th February, 1815—except those consumed in the conflagration of the Treasury in 1833.

2d. Rolls of all volunteers and militia, *prior* to, and during the war of 1812, that is, to the peace of the 17th February, 1815—except those that were consumed in the conflagration of the Treasury in 1833.

3. Rolls and inspection returns (*to a very limited amount*) of volunteers and militia called out in the war of 1813, for the States of Vermont, New York, Pennsylvania, New Jersey, Delaware, North Carolina, and South Carolina, transferred to this (the 3d Auditor's) office, by the Adjutant General.

4. *Rolls in the Pension Office.*

1. Rolls of volunteers and militia engaged in the Mexican War, from the 24th April, 1846, to the 4th July, 1848, are partially in the Pension Office.

2. Rolls of all enlisted men of the ten additional regiments of the army, (say 3d dragoons, and the 9th to the 16th infantry,) raised by act 15th February, 1847, are partially in this office.

5. *Rolls of the naval service in the Fourth Auditor's Office.*

1. Rolls of seamen and flotilla men in all wars.

2. Rolls of marines in the land and naval service, in all wars.†

On account of the great expense already incurred beyond the remuneration usually estimated for so small an edition of a book of this size, (already extending to 800 pages,) we are compelled to withhold from the press a very considerable portion of the matter we had contemplated to insert in this Introduction. Besides the omission of the analytical tables illustrating the various denominations of pensions and bounty lands, which have,

* It not unfrequently occurs, that when the rolls in one office do not establish the service claimed, the said service may be established by the rolls in another office, according to the above references.

† These rolls are also in charge of Major Howle, Adjutant and Inspector of the Marine Corps, at the Marine Barracks, Navy Yard.

in some respects, been much confounded, both in legislation and in the administration of the laws, we have been unable to devote the still more enlarged space that would have been required for the commentaries which were also prepared for the introduction, and referred to by notes at pages 1, 41, 127, 153, 163, 185, 188, 229, 257, 278, 279, 281, 313, and 537.

A further, and perhaps a yet more potent reason, has been suggested, for deferring these commentaries: it is doubted whether editorial *strictures*, (as they might be considered,) on the *inequalities of Legislative Provisions*, and the *conflicting of Opinions, Decisions, and Regulations, in the administration of the laws*, would be acceptable, however they might tend to simplify and shorten the modes of correcting them hereafter.

These unavoidable omissions we exceedingly regret, although they constitute in many respects a *gratuitous labor* bestowed on greatly mistified subjects, which could hardly have been expected of us after so much elaboration that has been otherwise bestowed on the work as now presented. We shall, nevertheless, very gladly insert them hereafter, should a second and larger edition be called for; and in that event, we will cheerfully transmit them through the proper channels, as a supplement without charge, to all persons holding a copy of this edition. And a speedy call for a second edition we cannot but sanguinely anticipate, from the high estimate in which it is held by the Commissioner of Pensions and others to whose inspection we have submitted it, independent of the universal interest in a subject that naturally dedicates itself to the military spirit of the country, which, impersonated by the patriotic ardor of Washington, at once gave us a national existence and an impulsion in that career which has already wafted us to the shores of the Pacific, and, with two inconsiderable exceptions, made us an ocean-bound republic, at the same time making us the centre of the civilized world, and the putative guardians of the remnants of barbarism on this continent, destined, through our fostering hands, to be reclaimed to civilization. Such have been the immediate sources from which the munificent bounties in lands and pensions have flown, and will never cease to reward the patriotic "regular" and "citizen soldier," his widow or his orphan, whilst the profession of arms shall be needed in the vindication of our country's rights, or in the redress of her wrongs.

VIRGINIA HALF PAY AND COMMUTATION CLAIMS.

For reasons partly alluded to under the foregoing head, but more particularly because we considered the merit of these claims to be finally adjudged upon principles of law and equity by the Department, under the two advisory opinions of the Attorney General of the United States, of the 27th of March, 1849, at page 663, in the cases of the administrator of Churchill Gibbs, and the representatives of John M. Galt; and presuming, moreover, that, under all aspects of the subject, the act of the 5th of July, 1832, being purely a special act for the relief of a particular class of claimants, the principles governing the administration or execution of the same were now settled as a finality, and did not call for a rehearsal of the other side of a question raised by previous *misconceptions* of a special act ratifying and *re-affirming rights already conceded*, and repeatedly recognized in particular cases, we had omitted the insertion of the following opinions, appertaining to Virginia half-pay and commutation claims. But on further reflection, and under the suggestion of the Commissioner of Pensions, made to us on finding the argument of Attorney General CLIFFORD omitted, we abandoned the responsibility of *that* and other omissions of the same purport, which we had considered as no longer applicable to or impeding the admission of the like claims, and therefore give them a place

here, where they will be as readily accessible to all parties interested, as if they were interspersed in the body of opinions in the order of their dates.

At the same time we take the liberty of presenting a summary of all the legal points touching these claims, several of which were not adverted to by the late Attorney General, in the cases of Gibbs and Galt; but all of which confirm his views in those cases, and are now applicable to all like cases. To this summary, we may premise that *half pay for life* was the *substantive thing* promised for military service during the revolutionary war, which would infuse its quality of equity and right of grant into any mode of satisfying the same that might afterwards be substituted with the consent of the claimant; consequently, *half pay* necessarily carried with it the right of *commutation* for whatever period and for whatever amount Congress might estimate and determine such *half pay* for life to be worth.

The resolution of the 21st October, 1780, which says, "the officers who shall continue in the service to the end of the war, shall also be entitled to *half pay during life*, to commence from the time of their reduction," makes no discrimination between those rendering such service in *any State line* and those in the avowed Continental establishment of the regular army of the United States, (see page 7, No. 7:) and the act of the 4th August, 1790, "providing for the debt of the United States," makes them identical: (See an abstract of this law, page xxxvii of this Introduction.) The 3d section of that act authorizes a loan to be proposed for the full amount of the "*domestic debt*," by opening books to receive subscriptions in the several States, &c. And the 13th section provides that the sums which shall be subscribed, shall be payable in the *principal and interest* of "*CERTIFICATES*" or "*NOTES*," which were issued by the several States, before the 1st January, 1790, as acknowledgements of debts by them owing, &c.—with the proviso that the "*CERTIFICATES*" of said States, so receivable, must have been issued for no other considerations than compensations, and expenditures for services or supplies towards the prosecution of the war, or the defences of some part of the United States during said war;" and that in lieu of such State "*CERTIFICATES*" or "*NOTES*," loan office "*CERTIFICATES*" shall be issued to such subscribers, bearing interest at 6 per cent., or 3 per cent., as the case might be.

Thus it is manifest that these creditors of the respective States, were considered and assumed, by this act, as *creditors of the United States*. And to this purport the said act further provides, "that, as it may happen that some of the *creditors of the United States* may not think proper to become subscribers to the said loan, *nothing in this act contained shall be construed to alter, abridge, or impair* their rights, or the contracts upon which the respective claims are founded."

Now, as completely as the provisions of this act, taken either in connection with the resolution of October, 1780, or isolatedly, and in view alone of its own universal bearing on all claims for services in *all the State lines*, and for expenditures by *individuals or States*, in prosecution of the war, yet it was considered by some (doubtless without adverting fully to those provisions) that Virginia, or the officers of her State line, had no claim on the United States for *half pay for life*, until the passage of the act of July 5, 1832; and this appears to have been the general sentiment, judging from the forbearance of claimants to present such claims until the passage of that act—which we, with all deference, would consider nothing more than the legislative ratification of a *pre-existing right* under the funding act of 1790: and it has been further contended that claims for commutation of *half pay* were not embraced by said act of July; whereas *commutation* is nothing more than the more eligible mode recognised by Congress, of discharging the substantive obligation of *half pay for life*, and not an *extension* of the assumed obligation of the United

State. Hence, notwithstanding the intimation set forth at the conclusion of one of the committee reports of the House of Representatives, to that effect, (see report of Committee on Revolutionary Claims, 18th May, 1838,) claimants seem to have entertained different views in regard to the provisions of that act, sustained, also, perhaps, by a retrospect of the act of August, 1790, if we judge from the frequent applications of claimants, shortly after the passage of the act of July, claiming commutation five years full pay in lieu of half pay for life, not only of the continental line and army proper of the United States, but of different State lines, accordingly recognised and relieved by special acts of Congress, of which a great number of instances will be found in this compilation, which may be regarded as legislative constructions of that act. In evidence of this mode of recognizing the identity of *commutation* (five years full pay) with *half pay for life*, we beg leave to refer to the act of the 2d March, 1833, page 178, No. 157, "*for the relief of John Thomas, and Peter Foster*," which, in the 1st section, requires the accounting officers of the Treasury to settle the account of John Thomas, and allow him "*five years' full pay*" as a captain of infantry of the Revolution in the Virginia line, with such interest thereon as would have been paid to him for the amount of said "*commutation*," if the same had by him been subscribed to the funded debt of the United States, under the act of 1790. And the 2d section of the act makes the same provision for Peter Foster, a lieutenant of infantry of the revolutionary army, of the Virginia line, and allow him five years' full pay, as such lieutenant, with such interest thereon as is directed in the 1st section, &c.

Notwithstanding these decisive evidences of the original and unchanged views of Congress in relation to the claims of States and individuals in State lines, some of these claims encountered difficulties in the Department, and were rejected, and then taken before Congress, as in the case of the legal representative of Churchill Gibbs, as long ago as the 30th December, 1837, and anterior thereto, in the case of the representatives of William Vawter. Congress uniformly sustained these claims; and, in that of Churchill Gibbs, after repeated action of committees of the House and the Senate, having referred the claim back to the Department where it had been rejected, stating in their reports that *no further legislation was necessary on the subject*—and having given a further interpretation of the previous legislation, by the 4th section of the act of the 3d March, 1835, (page 188, No. 171,) to continue the office of Commissioner of Pensions, which says, "*the duties heretofore required of and performed by the Secretary of the Treasury, under the provisions of the act of the 15th May, 1828, granting allowances to officers and soldiers of the revolutionary army, and in relation to Virginia claims for revolutionary services and the deficiency of commutation, be, and the same are hereby transferred to, and under the duties of the Secretary of War,*" &c., reaffirmed those views. Yet the Department continued to act in pursuance of the views taken by the Secretary of the Treasury and opinions of Attorneys General anterior to this transfer and disposition of those "*duties*," showing how strong and imposing an air of veresimilitude can be imposed upon subjects of the most learned disquisition, but under erroneous inferences, for want of a few qualifying and controlling *data* essential to give them their true aspect—until the two opinions of the 27th March, 1849, page 663, in which he refers to several of the aforementioned interpretations of Congress, and reversed the previous decisions against these claims. The last action of the Committee of the House on Revolutionary Claims, in the case of Gibbs, was a report of the 28th February, 1849, which concluded in these words: "*Concurring in the several reports heretofore made in this case, two of which have been sanctioned by the vote of the Senate and the House of Representatives, it would be useless labor to provide other and farther legislation for payment of this petition. That the claim is just, is scarcely con-*

tested by the Attorney General, *for he refers it to Congress for relief*; and if it be just, as the committee think it is, then it can be settled, and ought to be settled and paid under the 3d section of the act of the 5th July, 1832," &c.

To this review we surely need not add that it would have made a volume of itself to have included all similar disquisitions upon contested questions of right, because inapplicable to purposes of practical utility after the true aspects of the matters contested, have been attained by a final review of the whole ground, as in the whole class of cases of which those of the representatives of Gibbs, and of Galt, set forth in the opinions of Mr. Attorney General Johnson, of the 27th March, 1849, page 663. Yet we now insert the following, predicated on less comprehensive views of the subject:

Five years full pay was offered by Congress as an equivalent or substitute for half pay for life: and the acceptance of the substitute by an officer precluded the renewal of his claim for half pay, and conferred no claim to Virginia officers for commutation. The judgments against Virginia, in behalf of the officers of her State line, have been for commutation, and not for half pay—which judgments must have been rendered on the principle of compromise between her and her officers, she not having promised the commutation or substitute of half pay—which supposes that Congress did not assume it. Therefore those officers must abide by the judgments, and not fall back upon their original claim for half pay, as, in like manner, those who accepted the substitute offered by the United States, exonerated the United States from their obligation for half pay. So that, whatever may be the obligations of Virginia, Congress have only authorized the half pay, by the act of 5th July, 1832, where the officer had not elected to accept the substitute.

ATTORNEY GENERAL'S OFFICE, March 21, 1833.

SIR: Many pressing engagements in the Supreme Court, during its late term, have prevented me from replying sooner to your letter of the 19th of January last, in relation to the claim to half pay made by the representatives of William Vawters, and other officers of the Virginia line in the revolutionary war.

By the resolve of Congress of March 22, 1783, the option was given to such officers as should become entitled to half pay for life, under the resolution of 1780, to retain their title to their half pay, or to receive, in lieu of it, five years' full pay, on the terms and conditions mentioned in the resolve. The five years' full pay was offered as an equivalent for the half pay promised, and as a substitute for it. It might prove more or less valuable than the half pay, according to the duration of the officer's life. And it depended on the officers themselves to adhere to the original contract, or to accept the commutation proposed, as they might deem to be most for their advantage.

In the act of July 5, 1832, Congress seem to have legislated on the principle that an officer who had once made his election to accept the substitute, was bound by it; and that the United States were under no obligation to give him his half pay, although it should eventually happen that the substitute accepted proved to be of less value.

I understand from your statement that the greater number of the judgments against the State of Virginia, in the suits instituted by the officers, have been rendered for the commutation proposed by Congress, and not for the half pay. As Virginia had promised the half pay for life, but had never agreed to become liable for the substitute offered by the United States, the judgments against her for the commutation must, I presume, have been matters of compromise between her and the officers. In a contested suit, the only judgment which could have been rendered in favor of the officer, must have been on the promise made by the State in her resolve of 1779; and that promise was for half pay, and not for such commutation as Congress should propose to give in lieu of it.

The 3d section of the act of Congress of July 5, 1832, excepts from the benefit of its provisions the claims which had been paid, "or prosecuted to judgment against the State of Virginia." The officers, therefore, who had taken judgment for the commutation, are obliged to abide by the judgments they have obtained, and cannot claim to have their accounts settled on the principles of the half pay cases decided in the Virginia courts. The only ground upon which they could have been excluded is the one above stated: that is to say, that they had made their election to accept the substitute, and were bound by it.

There is no reason for supposing that Congress meant to discriminate between those who accepted the commutation without first obtaining judgments. The same principle obviously applies to both cases; and as the officers who have obtained judgments for the commutation are, by the plain terms of the law, embraced in the exception, and excluded from the benefit of the provision contained in the 3d section, it seems to follow that the words "*which had not been paid*" must receive a construction equally extensive; and that those who have accepted the commutation without prosecuting their claims to judgment are equally within the exception, and equally excluded from the benefit of the provisions contained in that section in favor of those who have not been paid, and have not

prosecuted their claims to judgment against the State. In both classes of cases Congress appear to have acted on the principle that the party had made his election to take the substitute, and that the United States were thereby absolved from the performance of the original contract.

In this view of the act of July 5, 1832, it is not material to inquire whether, according to the true construction of the resolve of Virginia of 1779, the commutation can be regarded as tantamount or not to the half pay promised. Whatever may be the obligations of Virginia, Congress have only authorized the half pay to be given where the officer had not indicated by some act of his own that he had elected to accept the substitute offered.

These principles embrace the case of Lieutenant Vawters; and as the commutation has been received by his representatives, I think they are not, under the law of July 5, 1832, entitled now to demand the half pay.

To the SECRETARY OF THE TREASURY.

R. B. TANEY.

Executors or administrators are legal representatives in contemplation of the act of the 5th July, 1832, providing for the payment of revolutionary claims of deceased officers of the State of Virginia, which they are entitled to receive without the assent of the heirs; but the Department may prescribe such regulations as are necessary to determine the authenticity of the claims presented.

ATTORNEY GENERAL'S OFFICE, March 4, 1836.

SIR: In your communication of the 18th ultimo, after referring to the various provisions of the act of Congress of the 5th of July, 1832, entitled "An act to provide for liquidating and paying certain claims of the State of Virginia," you propose for my opinion the two following questions, arising out of those provisions, viz:

1. Is an executor or administrator the legal representative in the contemplation of this act?

2. If he is, can the Executive, by regulation, require the assent of the heirs to the payment to him of the amount ascertained to be due?

In answer to the first of these questions, I have the honor to state, that, in my opinion, the executors or administrators, (as the case may be,) duly constituted, are the legal representatives contemplated by the act of Congress, of all deceased officers included in the act.

This construction is not only called for by the words used in the act of Congress, but is agreeable to the act of Assembly of Virginia, referred to therein, under which the judgments assumed by the United States were obtained; the suits in which those judgments were recovered having been prosecuted, in the case of deceased officers, as I learn from the Virginia reports and other authentic sources of information, in the names of their executors or administrators.

The second question must, in my opinion, be answered in the negative. The act of Congress has not made the assent of the heirs, or next of kin, a condition precedent. In the exercise of a sound discretion, the Executive may, by regulation, prescribe such forms, and create such guards, as are necessary to determine the authenticity of the claims presented under the law, and to prevent frauds on the Treasury; but when the "legal representatives" are once satisfactorily ascertained, they are entitled, under the positive provisions of the law, to the moneys directed to be paid to them.

To the SECRETARY OF WAR.

B. F. BUTLER.

"Commutation for five years' full pay are not included in and provided for by the 3d section of the act of 1832. By that section, the Secretary of the Treasury is only required to adjust and settle the claims of certain regiments and corps for half pay for life which had not been prosecuted to judgment against the State of Virginia, and for which the State is bound, on the principles decided in the Supreme Court of that State in other cases. The question, moreover, is regarded as adjudicated, and therefore not properly open for examination, except by Congress."

ATTORNEY GENERAL'S OFFICE, April 8, 1844.

SIR: I had the honor, on the 18th day of January last, to receive a communication from your predecessor in relation to a claim preferred by Mr. Green, the agent of the State of Virginia, against the United States, for the sum of \$58,148 66 paid by that commonwealth to the representatives of George Walls and others, for commutation claims for revolutionary services, the answer to which has been delayed by my necessary engagements in the Supreme Court and other engrossing duties, which left me until recently without the leisure required for the satisfactory examination of the subject to which it refers.

The question submitted to me is, whether, under the 3d section of the act of Congress of the 5th July, 1832, the liability of the United States is for the "half pay for life to the persons therein named, or whether it extends to the commutation for five years' full pay, they having died within ten years after the close of the revolutionary war?"

The first section of the act of Congress referred to provided for refunding to the State of Virginia the sum of \$139,543 66 for payments made by said State to the officers commanding in the Virginia line in the war of the revolution on account of half pay for life promised the officers aforesaid by that commonwealth. The 2d section directed to be paid to the State of Virginia \$241,345, to be applied to the payment of five classes of judgments that had been recovered against said State, and were then unsatisfied. The 3d section, upon which the question under consideration arises, is in the following terms: "That the Secretary of the Treasury be, and he is hereby, directed and required to adjust and settle those claims for half pay of the aforesaid regiments and corps which have not been paid or prosecuted to judgments against the State of Virginia, and for which said State would be bound on the principles of the half pay cases already decided in the Supreme Court of Appeals of said State; which several sums of money herein directed to be settled or paid, shall be paid out of any money in the treasury not otherwise appropriated by law." On the part of Virginia, it is insisted that by the true interpretation of this section, the claims now preferred are embraced by the act of Congress, whilst, by the decision of the late Secretary of War, it is affirmed that it extends only to half pay claims, and not to cases of commutation for five years' full pay. The question is not altogether free from difficulty; and if it were an open one, I should feel myself called on, in any opinion I might express, to give a very full and particular statement of the reasoning by which that opinion was controlled. But in view of the uniform action of the several Departments of the Government, founded upon an interpretation placed on the law by an eminent jurist then at the head of the Treasury Department, immediately after its passage, and fortified by the subsequent decisions of a Secretary of the Treasury, and an Attorney General no less distinguished, I regard the matter as having passed into judgment; and the construction of the law to which the late Secretary of War has conformed his decision, so far as the executive departments of the government are concerned, as fixed, and as properly subject to modifications or change by the power of Congress alone.

I am of opinion, therefore, that the claim in question ought not to be paid without an act of Congress to authorize it. JNO. NELSON.

Hon. WILLIAM WILKINS, *Secretary of War*.

"The claim made in behalf of Virginia by Thomas Green, Esq., agent of that State, is just, and falls within the provisions of the 2d section of the act of 1832; and the balance of the appropriations made by that act would be applicable to the payment of it, were it not that it has been carried to the surplus fund, from which it cannot be withdrawn except by act of Congress."

ATTORNEY GENERAL'S OFFICE, April 8, 1844.

SIR: The Hon. James M. Porter, your predecessor in the Department of War, by letter dated the 6th of February last, submitted for my examination the accompanying application of Thomas Green, Esq., agent of the State of Virginia, (which, with the papers transmitted, numbered from 1 to 8, inclusive, is herewith returned,) upon which he desired my opinion—1st, whether the claim thereby presented is one for which the government of the United States is liable, under the act of Congress of the 5th July, 1832? and, 2d, whether, if such liability exists, it will not be necessary for Congress to make an appropriation before it can be paid, the unexpended balance appropriated by the second section of that act having been carried to the surplus fund?

Upon the first question, I am clearly of opinion that the claim is just, and falls within the provisions of the 2d section of the act of 1832; that the exceptions taken to it by the Commissioner of Pensions cannot be sustained, and that the balance of \$9,414 66 of the appropriations made by that act, if now within the control of the department, would be applicable to the payment of the demand. But the difficulty suggested by the second question is, I think, insuperable. The balance above indicated was, under the circumstances of the case, properly carried to the surplus fund, from which it can be withdrawn by the appropriating power of Congress alone.

Hon. WILLIAM WILKINS, *Secretary of War*.

JNO. NELSON.

"All declarations for pensions made prior to the act of 30th of April, 1844, restricting widows to only such part of the five years' pension as their husbands did not receive, are free from the influence of the restriction. From its passage to January 23, 1845, they were subject to the restriction; but subsequently to the latter date they were again free from it. Widows who prepared their declarations prior to 30th April, 1844, and filed them before 23d January, 1845, from whom any part was withheld on account of payment to their husbands, are entitled to the whole amount."

ATTORNEY GENERAL'S OFFICE, May 9, 1845.

SIR: Your communication of the 11th ultimo was duly received, with the statement of the Commissioner of Pensions and accompanying papers. I have been prevented from giving the subject an earlier attention by the pressure of other engagements. The

question presented is so involved in its terms that I have had some difficulty in comprehending its precise purport. But I understand it to relate to the extent to which the act of 20th February, 1845, operates on the applications of widows of revolutionary officers or soldiers for the benefit of the pension acts of 1836 and of 1838. At the date of the appropriation act of 30th April, 1844, it was the settled construction of existing laws that widows entitled to the benefit of these pension laws should have five years' pension from the 4th day of March, 1836, notwithstanding their husbands may have enjoyed the benefit of the act of 1832 to a period later than the 4th March, 1836. The effect of this construction was to give the same amount of pension to the husband while living, and the widow, after his death, for so much time as he had survived beyond that date. The restriction of the act of April, 1844, arrested this practice, and deducted from the widow's pension so much as was paid to the husband after the 4th of March, 1836. The joint resolution of 23d January, 1845, suspended the operation of this restriction, and declared that its provisions should not affect a widow's claim, whose application for a pension, or arrear of pension, at the passage of that resolution, had been made and filed in the Pension Office, awaiting the decision of the Commissioner of Pensions thereon. The term "arrear of pension" must mean so much of pension as had been withheld for the period after the 4th March, 1836, in which the husband had been paid. The act of 20th February, 1845, supersedes the act of 30th April, 1844, and settles, definitively, that from its passage a pension shall not be granted to any widow for or during any part or portion of the time her husband may have received one, whose declaration therefor shall not have been made on or before the 30th day of April, 1844, and shall not have been received at the Pension Office on or before the 23d January, 1845. All declarations for pensions made prior to the restriction of 30th April, 1844, are free from the influence of that restriction. Up to its date, applicants had a right to five years' pension from 4th March, 1836; from its passage, they had no such right until 23d January, 1845, when its influence on their cases was suspended. The reservation in the act of 20th February, 1845, was therefore made in favor of all declarations which were prepared prior to the restrictive clause and filed in the Pension Office prior to the 23d January, 1845, and the intent was to secure to the widows all the benefits which they were entitled to prior to the 23d January, to the same extent as if the act of 30th April, 1844, had never passed, with a single condition that they had prepared and filed their declarations within the periods mentioned in the act of 20th February, 1845. Without this, those widows whose cases were acted on before the 30th of April, 1844, would be paid by one rule, and those whose applications were prepared, but not acted on, would be paid by another. The term pension includes the claim for the less amount, which had been withheld by reason of payment for part of the five years to the husband. And the act of 20th February must be construed to carry that intention into effect. If a widow had prepared her declaration for a pension prior to the 30th of April, 1844, and filed it before the 23d January, 1845, praying for a five years' pension, and any part had been withheld on account of payment to her husband, her case is within the reservation of the act, and she is entitled to receive the full amount, as if the restriction had not been imposed.

Hon. WILLIAM L. MARCY, *Secretary of War*.

J. Y. MASON.

"The representatives of a lieutenant in a Virginia State regiment, afterwards transferred to the continental establishment, who in his lifetime obtained a judgment against said State for commutation of five years' full pay in lieu of half pay for life, and received payment thereof in 1792, are not entitled, under existing laws, to be allowed a claim for further compensation for services rendered by their ancestor. This claim was considered and rejected by the department in 1833, on the ground that it had been paid. It is not provided for in the 3d section of the act of 1832, and cannot be allowed except under special authority from Congress."

ATTORNEY GENERAL'S OFFICE, June 2, 1847.

SIR: After considerable delay—arising in part, however, at the instance of the agent of the claimants—I proceed to state my views upon the legal questions presented for my consideration in your letter of the 14th ultimo, enclosing the papers relating to the claim of the representatives of Churchill Gibbs.

It appears by the report of the Commissioner of Pensions, that Churchill Gibbs was a Lieutenant in the First Virginia State Regiment, commanded by Col. George Gibson, and that he served in that capacity to the close of the revolutionary war. The papers also show, that the State of Virginia, by an act of her Assembly, passed in May, 1779, promised half pay to certain officers therein described, who should serve until the end of the war, to commence from the determination of their command or service.

It is proper to remark, that the documents transmitted, while they show that Lieut. Gibbs was in the service, also disclose the following important facts:

The General Assembly of Virginia, in November, 1781, passed an act to adjust and "regulate the pay and accounts of the officers and soldiers of the Virginia Line on the

Continental establishment, and also of the officers, soldiers, sailors, and marines, in the service of this State, and for other purposes," in which among other things, it is provided, "and the Executive is hereby empowered and required to set on foot proper inquiries to discriminate such officers, as by unworthy conduct, or by any means whatever, be thought unfit to be considered as entitled to half-pay."

In pursuance of this authority, a board of officers was convened in February, 1789, and the result of their proceedings show that Lieutenant Gibbs was included in the list of discriminations for the following reasons: "Had the command of a guard at Richmond, which he quitted without leave, and went to Petersburg, where he was taken by the enemy."

It further appears that, in 1831, the State of Virginia, by her Commissioner, presented a memorial to Congress, setting forth certain claims of the State for payments made, and liabilities incurred, on account of the services of her citizens in the revolutionary war. In this memorial it is alleged, that "Virginia has paid claims of revolutionary officers since the settlement of the United States, to the amount of \$139,543 66. Judgments have been rendered against the Commonwealth on these claims to the amount of \$241,354. The claims now pending against the Commonwealth, including those reported by the board of officers, which are not yet prosecuted, are estimated at \$300,600, which are supposed to rest on the same principle with others on which judgments have been rendered."

It also contains a special statement with respect to the regiment in which Lieut. Gibbs served, from which I make the following extract:

"The regiment commanded by Col. George Gibson, generally known as the First Virginia Regiment, was transferred to the Continental service in October, 1777, in place of the Ninth Virginia Continental Regiment, which was captured at the battle of Germantown. Gibson's regiment was actually in the service of the United States, when it was thus transferred by law, though it had been raised for the particular defense of the State. This regiment continued in the Continental service throughout the war. It has been recognised as a Continental regiment, both by Congress and the other Departments of the Government, and its surviving officers are now receiving pay from the United States, under the provisions of the act of Congress of the 15th May, 1828. Payments have been made, by Virginia, to officers, and the representatives of officers belonging to this regiment, to the amount of about \$42,000. Judgments have been rendered on similar claims against the Commonwealth to the amount of about \$27,000; and those claims of the officers of this regiment, which are not yet prosecuted, but for which the State is liable, on the principles of these judgments, are estimated at \$31,200."

The name of Churchill Gibbs is included in the list of payments under judgment, made by Virginia, appended to the memorial under the signature of the Auditor of the Commonwealth, and forms a part of the gross sum of \$139,543 66.

The difficulty, therefore, that stands in the way of the right of his representatives to demand remuneration for the services of their ancestor, at the present time, even admitting the service to have been faithfully performed, arises from the fact, which is beyond dispute, that in his lifetime, Lieutenant Gibbs had prosecuted his claim successfully against the State of Virginia, and recovered a judgment for commutation of five years' full pay, in lieu of half pay for life, and that the amount thus liquidated, including interest, was paid to him, and the judgment satisfied 7th May, 1792, more than forty years before the passage of the act of Congress of the 5th July, 1832, under which the claim is now preferred.

No reasonable doubt can be entertained that the memorial of Virginia, and the facts therein set forth, induced Congress to pass the act of the 5th July, 1832. It is entitled, "An act to provide for liquidating and paying certain claims of the State of Virginia," IV Stat. at Large, 563. The first section directs "that the proper accounting officers of the Treasurer do liquidate and pay the accounts of the Commonwealth of Virginia against the United States, for payments to the officers commanding in the Virginia line in the war of the Revolution, on account of half pay for life, promised the officers aforesaid by that Commonwealth," and appropriates the exact sum which her Commissioner had claimed in his memorial under that head, including, it should be remembered, the amount of the judgment for commutation and interest on the same, allowed to the ancestor of the present claimants.

The second section requires and directs the Secretary of the Treasury to pay the amount of certain judgments remaining unsatisfied, which had been rendered against the said State on account of the promise aforesaid, not exceeding in the whole the sum of \$241,345. The claimants rely upon the third section, and insist that it authorizes the allowances and payment of their claim, deducting the amount which their ancestor received from the State of Virginia. It provides, "That the Secretary of the Treasury

be, and he is hereby, directed and required to adjust and settle those claims for half pay of the officers of the aforesaid regiments and corps which have not been paid or prosecuted to judgment against the State of Virginia, and for which said State would be bound, on the principles of the half pay cases already decided in the Supreme Court of Appeals of said State, which several sums of money herein directed to be settled or paid shall be paid out of any money in the Treasury not otherwise appropriated by law."

On the 23th July, 1832, the Treasury Department adopted *inter alia* the following regulations for the settlement of claims under the third section: "The settlement to be confined to those cases of which a list has been furnished by the Auditor of the State of Virginia as containing the names of those officers reported by the board of officers in 1782 and 1784, (including part of Col. Crockett's regiment,) whose claims for half-pay have not been satisfied nor prosecuted in court, and of those cases in which judgments have been obtained against, but not paid by, the State of Virginia." In this connexion it is proper to remark, that in May, 1833, when this claim was first presented for payment, during the period that the settlement of these claims was devolved on the Treasury, it was rejected by the then Secretary, Mr. McLane, on the ground that it had been prosecuted to judgment by Lieut. Gibbs, and that the judgment, which was for commutation, had been paid with interest 7th May, 1792. That decision, it seems, was acquiesced in at the time, and does not appear to have been made the subject of controversy until the present year. A few years since a petition was presented to the House of Representatives on behalf of Mr. Gibbs, praying that he be paid commutation of five years' full pay from the United States, because the regiment to which he belonged was transferred in October, 1777, from the State line of Virginia into the Continental line of the army of the United States. The Committee on Revolutionary Claims, to whom the petition was referred at the last session, could find no just cause to allow the claim in the form in which it was presented, but say "there is no prohibition for justice to the petitioner in the third section of the act of 5th July, 1832," and added, in conclusion, "that whatever claim he may have, is to the remainder of his half-pay promised by Virginia," and that there was no necessity for further legislation for his relief.

After this report was made, the claim was again presented to the Department for payment, upon the original ground which had been overruled by Mr. McLane, and the same question is now presented for my opinion, whether it is embraced in the 3d section of the act of 1832.

Concurring altogether in the conclusion of the Secretary of the Treasury, I am of opinion that the claim is not provided for in that section, and cannot be paid without further legislation.

The act of 1832 may be regarded in some respects in the nature of a contract between the United States and the Commonwealth of Virginia. The former assumed certain obligations, which, for the sake of greater precision and certainty in their fulfilment, were divided into three separate classes, altogether distinct and independent of each other. The first section provides for the repayment of the amount which had been paid by Virginia on account of the half pay claims of her citizens for services during the revolutionary war. This class, let it be remembered, had been adjusted and paid by the State prior to the passage of the act of 1832. In adjusting these accounts, the accounting officers of the Treasury had no authority to investigate the merits of the original claims; they could only examine the vouchers and compute the amount which had been paid by Virginia, without contracting any further obligation whatever. The second section relates exclusively to outstanding judgments, constituting the second class of these claims assumed by the United States under that arrangement. It is not pretended that the present claimants can have any relief under any one of its provisions.

The third section is limited to claims to be adjusted and settled by the Secretary of the Treasury, and such as had not been paid or prosecuted to judgment against the State of Virginia, and for which said State would be bound on the principles of the half-pay cases already decided in the Supreme Court of Appeals of said State. The nature of the obligation contracted under this section varies essentially from the two former. Observe the difference of language. The requirements here is to *adjust and settle*, evidently referring to a class of outstanding claims not already embraced in the previous sections. Viewing the law in the light of a contract, it will be perceived that the facts which it was agreed should regulate the performance of the stipulations in the two first sections had been fully ascertained by Virginia herself, and by her authorized tribunals. Consequently, it was provided in the first place, that the actual payments made, when ascertained, should constitute the measure of the obligation assumed, and the *covenant of payment* was made to apply to *the accounts of the State*, and not to the claim of the officers, for the reason, that the claims embraced in that section had been already adjusted and paid.

Surely, then, it is immaterial whether any given claim was paid before or after judgment, if it had been adjusted before the passage of the act of 1832, and if the amount so paid was included in the list of settled accounts. It does not appear that the nature and extent of the obligation, or the rights of the parties under the second section, have ever been drawn in question.

Further comment, therefore, on that provision is unnecessary.

Under the two first sections, by the express words of the act, the payments were stipulated to be made to the State, and not to the claimants, for reasons too obvious in both cases to require any mention. It is therefore clear, in my judgment, that all claims which had been adjusted and paid by Virginia prior to the 5th July, 1832, were embraced in the first section of the act, and that the Department has no power to re-examine or re-adjust *the amount* thus found to be due and fully settled between the two Governments. Much stress is placed in the argument in behalf of the claimants upon the following sentence of the third section: "And for which said State would be bound on the principles of the half pay cases already decided in the Supreme Court of Appeals of said State." It is insisted that this provision enlarges the obligation assumed, and authorizes the Secretary of the Treasury to re-open and re-adjust any case *settled* by the State, where the amount paid to the claimant was less than the original claim. I cannot so regard it. On the contrary, it seems to me that it was inserted for a very different purpose. It was intended to prescribe the rule of adjustment which Congress contracted to apply in the settlement of the unliquidated claims not embraced in the previous sections. In this sense it is an important part of the compact; for while it secures the application of just rules in the adjustment of outstanding claims, it operates to guard the Treasury against imposition and fraud. This was desired by both parties, and to accomplish this purpose it was agreed that the Secretary of the Treasury should be governed by the rule which Virginia had prescribed to herself while the obligation rested upon her, and before it had been transferred to the United States.

It is assumed in the argument, that in some few cases similar claims have been allowed by the Department. I have not the documents before me to examine the special circumstances under which such allowances have been made, nor do I deem it of much importance; for if such examples can be found, their influence is more than counterbalanced in this case by the official opinion of the Secretary of the Treasury, pronounced on the 17th May, 1833, rejecting the claim. It would be unsafe, in my opinion, to disturb that decision at this day, without the sanction of Congress. Questions litigated before the Department must be considered as closed at some time, and when shall that rule be applied, if not after a solemn decision and fourteen years' acquiescence in its justice and propriety. *United States vs. Bank of Metropolis*, 16 Peters 400—1.

There is only one point further in the argument which I feel called upon to consider at the present time. It is contended that the phrase "prosecuted to judgment" has reference solely to the judgments specifically enumerated and classified in the second section of the act. No doubt such is the general application of the phrase. But in this special case it may not be unreasonable to regard it in the light in which it was evidently viewed by Mr. McLane, as furnishing an additional obstacle to the right of the present claimants to recover, inasmuch as the list filed by the authority of the State upon which the action of Congress was had, shows that this claim was first prosecuted to judgment, and then paid, and finally included by the first section in the settlement between the two Governments with the adjusted accounts.

It is true that the judgment was for commutation, but it is admitted that it was in lieu of half-pay for life. It was based upon a half-pay claim, under the promise in the act of the Virginia Assembly.

The party accepted the fruits of the judgment, and his representatives are presumed to be in the enjoyment of them at this time. The papers show that he received the sum of \$2,801 33.

It is doubtless competent for Congress to grant relief, and to that tribunal it seems to me the claimants should apply.

NATHAN CLIFFORD.

Hon. W. L. MARCY, *Secretary of War*.

"Interest as well as the principal of the claim of the heirs of Thomas Ewal for commutation for military services may be allowed, as in the case of John M. Galt. (Opinion of 27th March, 1849, p. 663, [7.]) Although interest as a general rule will not be paid upon claims against the government, there are instances in which the government, from considerations of policy, allows it."

ATTORNEY GENERAL'S OFFICE, July 20, 1849.

SIR: The point suggested in the case of the claim of the heirs of Thomas Ewal, upon which you have desired my opinion, I have considered. It is certainly true that, as a refusal or delay of a debtor sovereign to pay a debt is never to be presumed, interest as

a general rule is not to be exacted. But there are exceptions, and, in my opinion, this claim furnishes one. It is now too late to inquire whether interest originally could have been claimed upon commutation of pay. The opinion I gave on the 27th of March last, in Galt's case, to which you refer, and under which you have acted, I see no reason to question. It is true, that, in the claim now before me, a judgment has not been obtained against Virginia for the amount demanded; but it is clear that she is liable for it, and that her courts will so decide. In that event, you concede that the United States will be compelled to indemnify Virginia if she pays, or to pay the claimants if they then shall present their claims to the United States. This being so—and I think it is beyond all doubt—I am of opinion that the interest should be paid as well as the principal, and at once. To compel the claimants to incur the expense of a suit against Virginia which can but result in one way, and to the delay consequent upon it, whilst it could not possibly inure to the benefit of the United States, would be to do great and unnecessary injustice. I repeat, therefore, that the interest as well as the principal of the claim, in my opinion, should be allowed.

REVERDY JOHNSON.

HON. THOMAS EWING, *Secretary of the Interior.*

"The representatives of Thomas Armstead, a captain who served in a Virginia regiment in the revolutionary war prior to 21st May, 1782, when he became a supernumerary to the 3d of April, 1783, and who died 1st September, 1849, to whom the Virginia legislature allowed \$2,400 in 1826, as commutation without interest, and to whom Congress subsequently allowed half-pay from 3d September, 1783, to the period of his death, and afterwards allowed half-pay from 21st May, 1782, to said 3d April, 1783, are not now entitled to have the account reopened and restated, so as to allow interest on the said commutation."

ATTORNEY GENERAL'S OFFICE, *October 31, 1849.*

SIR: The questions submitted by you to this office in the case of the claim of the representatives of Thomas Armstead, a captain in the army of the Revolution, in the 1st Virginia State regiment, commanded by Colonel George Gibson, I have considered. As it is only on points of law that the advice and opinion of the Attorney General can be properly requested by yourself, as the head of your department, I shall limit what I have to say to the legal questions presented; and in doing this, I must assume as true the facts stated by the Commissioner of Pensions. To devolve upon this office the duty of examining and deciding controverted facts, would make it impossible for the Attorney General to attend to his other duties as prescribed by the act of 1789.

The facts, then, of the present case are these: General Armstead was a captain in the regiment referred to, but became a supernumerary at and before the termination of the war. In February, 1826, Virginia, by a special act of her legislature, allowed his representatives two thousand four hundred dollars as commutation without interest; and on account of his having been a supernumerary officer, afterwards, in February, 1833, and under the act of Congress of the 5th July, 1833, half pay was allowed them by the United States from the 3d September, 1783, to 1st September, 1809—the period of the captain's death—less the sum which had been paid as above by Virginia; and in October, 1845, a further allowance of like pay was made by the United States from the 21st May, 1782, when Armstead became a supernumerary, to the 3d of April, 1783—the commencement of the prior allowance.

The claim now made is to have the entire account opened and restated, so as to give commutation with interest.

Upon these facts you have submitted to me two questions of law. The first is, whether Virginia, having, by the act of 1826, acknowledged the right to commutation, that right is now open to be disputed by her, or by the United States standing in her place; and, secondly, whether, if it is open, the fact that Armstrong was a supernumerary defeats the right to interest on the commutation which Virginia did allow? Your second question being one entirely of fact, I pass it by for the reason heretofore assigned.

First. Is Virginia or the United States estopped from denying the right to commutation itself? If Virginia is, it is because of her act of 1826 allowing it; but the reasons for that allowance do not appear. The legislature may have granted, and perhaps did grant it, without reference to the question of strict right. Indeed, the very necessity of legislative interference may have been because there was no antecedent right which could be enforced by the claimant. Such, I think, is the inference from the law, instead of its being an estoppel on the original prior question of title. The case of officers of that description, as is evident from the history of the times, was, in Virginia, considered a bad one. Without fault of theirs they ceased to be in actual service; and on that ground alone were not considered, in respect to compensation, on an equal footing with their more fortunate associates. This very hardship, in all probability, led to these special acts in their favor; but such acts are to be considered—as they clearly were at the

time—as acts of favor—as grants of bounty; or, in given instances, as compromises of rights in dispute between the United States and the officer or his representatives. They partake, therefore, in no particular of a right so admitted as to have the effect of an estoppel as to what they actually grant. To that extent they are exclusive, but no further. The original question of right, therefore, to commutation in the present case, is not, in my opinion, cancelled by the Virginia law of 1826.

Second. Being a supernumerary, I am clear in the opinion that his estate is not entitled to the interest it now claims. The counsel for the claimant is mistaken, I think, in supposing that the right to half pay and commutation is always identical. It is not so under the Virginia law of December 16, 1790, nor, according to my view, under the act of Congress of July 5, 1832. In the opinion I gave you on the 27th of March last, in Galt's case, I stated that the commutation pay which had been recovered of Virginia, or for which, when not paid, she was liable, was under her act of December, 1790. In that respect, I thought my predecessor (Mr. Taney) had been mistaken in the opinion he had given upon the point in 1833. Resting—as I still think the right to such pay does—upon the said act of 1790, it is clear, I think, both from the words of the act and its construction by the judiciary of Virginia prior to the act of Congress of July 5, 1832, that it was only secured to officers who had served to the end of the war.

The language of the act of Virginia in this respect is too clear for doubt; and in the case of Markham (1 *Leigh*, 524) it was so held. Judge Green, speaking of cases under the act of 1790 in which judgments had been rendered against the State for commutation and interest in lieu of half pay, said that the court of appeals, whilst they held that those who served to the close of war were so entitled, and in such cases affirmed the judgments, reversed the others upon the ground that the claimants there did not so serve, and were, therefore, not entitled under the act to commutation and interest.

The decision in 1 *Leigh* was just preceding the act of Congress of 1832, and its provisions are to be construed with reference to the obligation of Virginia as ruled by her courts. Its third section is, therefore, so to be interpreted, and to be held only to embrace claims for which Virginia was then, under her existing legislation, as judicially construed, responsible.

It was not the design of Congress to leave it to Virginia, either by her legislature or her courts, to enlarge the sphere of her liability. To the extent that she was then a debtor, and only to that extent, did Congress intend to indemnify her. As the present claim, therefore, to commutation and interest, was never due by Virginia under her act of 1790, or otherwise, prior to July 5, 1832, I think it is not embraced by the third section of the act of July 5, 1832.

There are other grounds, perhaps equally fatal to the claim, to which I do not refer, because they are not involved in either of the inquiries you have propounded.

REVERDY JOHNSON.

Hon. THOMAS EWING, *Secretary of the Interior.*

"The claim of the administrators of Commodore James Barron, commander of the State navy of Virginia during the war of the Revolution for commutation pay and interest, should be allowed. This opinion is founded upon the judicial decisions of the courts in Virginia, that officers of the navy of that State, during the revolutionary war, who served to its close, were equally entitled with officers of their line to commutation pay under the act of 1790, and upon reasons stated in other similar cases."

ATTORNEY GENERAL'S OFFICE, *January 31, 1850.*

SIR: At the request of the Secretary of the Interior, communicated to me in an official note of yesterday, that I would state to you, "in writing," the grounds of my decision in the Barron case, "that it may serve as a guide for future action," I have the honor to state, that the decision was founded on the opinion, that, upon the principles of the judicial decision of the Virginia courts, officers of the navy of that State, during the revolutionary war, who served to its close, were equally entitled with officers of their line to commutation pay under the act of 1790, and upon the grounds stated in the several opinions I have given in relation to such pay to officers of the line, that their claim is also due by the United States, under the act of 5th July, 1832.

REVERDY JOHNSON.

Mr. EDWARDS, *Commissioner of Pensions.*

RESOLUTIONS OF CONGRESS

CONFERRING

PENSIONS

ON

PERSONS DISABLED IN THE MILITARY AND NAVAL^{*} SERVICE OF THE U. S.,

AND

GRATUITIES TO MILITARY OFFICERS FOR CONTINUED SERVICE DURING THE WAR.

[1.]

[*Journals of Congress, 1776, vol. 1, page 454.*]

[Commissioned and non-commissioned officers of the Army and Navy, also soldiers, seamen, and marines, who may lose a limb, or be otherwise disabled in the line of their duty, to receive a pension adequate to their support, not to exceed their half pay as officers, soldiers, or seamen.]

1. Military officers, non-commissioned officers, and private soldiers, who shall lose a limb, or be otherwise totally disabled, in the line of their duty, to receive a pension per month, equal to half their monthly pay as officers or soldiers of the United States.

2. Commanders of ships, officers, marines, or seamen, belonging to the United States, who shall lose a limb, or be otherwise totally disabled, in engagements in which no prize is taken, to receive a monthly pension equal to one-half their monthly pay as officers, seamen, or marines; but in case a prize be taken, their respective profits thereof shall be computed as part of their pension, and deducted accordingly.

3. Officers, seamen, and soldiers, in the Army or Navy of the United States, who shall be wounded in an engagement, and rendered incapable of serving in the Army or Navy, but not totally disabled, to receive an adequate monthly pension, not to exceed their half pay.

4. Provided, respectively, that in every such case of wound or disability, such officer, soldier, seaman, or marine, shall produce the evidence required to substantiate the facts of his wound or other disability received in such engagement.

5. The Legislatures of the several States recommended to appoint proper persons to receive and examine such evidence, and to register the same; also, what support is adjudged by the Legislature of their State; and the payments made from time to time to be reported to Congress, or to the "Board of War."

6. And that the Legislatures cause such payments to be made on account of the United States.

7. Provided, that all such officers and soldiers, capable of guard or garrison duty, be formed into a Corps of Invalids; and also said naval officers, marines, and seamen, capable of doing any duty in the Navy, be so employed.

RESOLUTION—IN CONGRESS, AUGUST 26, 1776.

Congress resumed the report of the committee on disabled soldiers and seamen, and came to the following resolutions:

Whereas, in the course of the present war, some commissioned and non-commissioned officers of the army and navy, as also private soldiers, marines, and seamen, may lose a limb, or be other-

* It may be regretted that the policy of connecting the provisions for military and navy pensions in the same laws and resolves, as in resolution [1.], was not continued:

wise so disabled as to prevent their serving in the army or navy, or getting their livelihood, and may stand in need of relief:

1. *Resolved*, That every commissioned officer, non-commissioned officer, and private soldier, who shall lose a limb in any engagement, or be so disabled in the service of the United States of America, as to render him incapable afterwards of getting a livelihood, shall receive, during his life, or the continuance of such disability, the one half of his monthly pay from and after the time that his pay as an officer or soldier ceases; to be paid by the committee as hereafter mentioned.

2. That every commander of any ship of war or armed vessel, commissioned officer, warrant officer, marine, or seaman, belonging to the United States of America, who shall lose a limb in any engagement in which no prize shall be taken, or be therein otherwise so disabled as to be rendered incapable of getting a livelihood, shall receive, during his life, or the continuance of such disability, the one half of his monthly pay, from and after the time that his pay as an officer or marine or seaman ceases; to be paid as hereafter mentioned. But, in case a prize shall be taken at the time such loss of limb or other disability shall happen, then such sum as he may receive out of the net profits of such prize, before a dividend is made of the same, agreeably to former orders of Congress, shall be considered as part of his half pay, and computed accordingly.

3. That every commissioned officer, non-commissioned officer, and private soldier, in the army, and every commander, commissioned officer, warrant officer, marine, or seaman of any of the ships of war, or armed vessels belonging to the United States of America, who shall be wounded in any engagement, so as to be tendered incapable of serving in the army or navy, though not totally disabled from getting a livelihood, shall receive such monthly sum as shall be judged adequate by the assembly or other representative body of the State where he belongs or resides, upon application to them for that purpose; provided the same doth not exceed his half pay.

4. Provided, that no commissioned officer, non-commissioned officer, and private soldier in the army, commander, commissioned officer, warrant officer, marine, or seaman of any of the ships of war, or armed vessels, belonging to the United States of America, who shall be wounded or disabled as aforesaid, shall be entitled to his half pay or other allowance, unless he produce to the com-

it will be perceived that it was dropped in the second resolution, marked [2.]; but resumed in the third resolution, marked [3.]; and then again disused, as a general policy, but occasionally resumed at distant intervals, sometimes in express terms, and sometimes dubiously. In all such cases a reference to them, with an explanatory remark, will be found in the introduction to this work. But when it became a settled policy of legislation to enact all navy pension laws distinct from the military pension laws, they assumed the character of distinct codes, which imparted somewhat distinctive features to the two systems, and made it proper to give separate insertion and consideration to the navy pension laws proper, in the sequel; whilst those that are of a mixed character will be included among the military pension laws, in the order of their dates.—*Editors*.

mittee or officer appointed to receive the same, in the State where he resides or belongs, or to the assembly or legislative body of such State, a certificate from the commanding officer, who was in the same engagement in which he was so wounded, or, in case of his death, from some other officer of the same corps, and the surgeon that attended him, or a certificate from the commander of the ship of war, or armed vessel engaged in the action, in which any officer, marine, or seaman received his wound, and from the surgeon who attended him, of the name of the person so wounded, his office, rank, department, regiment, company, ship of war, or armed vessel, to which he belonged, his office or rank therein, the nature of his wound, and in what action or engagement he received it.

5. That it be recommended to the several assemblies or legislative bodies of the United States of America, to appoint some person or persons in their respective States, who shall receive and examine all such certificates as may be presented to them, and register the same in a book, and also what support is adjudged by the assembly or legislative body of their State, to those whose case requires but a partial support, and also of the payment from time to time of every half pay and other allowance, and of the death of such disabled person, or ceasing of such allowance, and shall make a fair and regular report of the same quarterly to the Secretary of Congress or board of war, where a separate record shall be kept of the same.

6. That it be recommended to the assemblies or legislative bodies of the several States, to cause payment to be made of all such half pay or other allowances as shall be adjudged due to the persons aforesaid, on account of the United States.

7. Provided, that all such officers and soldiers that may be entitled to the aforesaid pension, and are found to be capable of doing guard or garrison duty, shall be formed into a corps of invalids, and subject to the said duty; and all officers, marines, and seamen of the navy who shall be entitled to the pension aforesaid, and shall be found capable of doing any duty on board the navy, or any department thereof, shall be liable to be so employed.

[2.]

[*Duane's edition of the Laws of the U. S., vol. 1, page 631—a note.*]

[Half pay for seven years, after the conclusion of the war, to all military officers who shall continue in the army to the end of the war.]

RESOLUTION—IN CONGRESS, MAY 15, 1778.

Resolved, unanimously, That all military officers commissioned by Congress, who now are, or hereafter may be, in the service of the United States, and shall continue therein during the war, and not hold any office of profit under these States, or any of them,

shall, after the conclusion of the war, be entitled to receive annually, for the term of seven years, if they live so long, one half of the present pay of such officer : provided, that no general officer of the cavalry, artillery, or infantry, shall be entitled to receive more than the one half part of the pay of a colonel of such corps respectively ; and provided that this resolution shall not extend to any officer in the service of the United States, unless he shall have taken an oath of allegiance to, and shall actually reside within some one of the United States.

[3.]

[*Journals of Congress 1778, vol. 3, page 68.*]

[Relief is extended to officers and non-commissioned officers of the army and navy and to soldiers, seamen, and marines, who had, anterior to the resolve of the 26th of August, 1776, lost a limb, or been otherwise disabled, such as that granted by said resolution.]

1. All provisions and regulations contained in the resolve of the 26th of August, 1776 are extended to all persons who lost a limb, or were otherwise disabled, before said 26th of August, 1776, and subsequent to the 19th of April, 1775, when hostilities commenced.

2. And, to remove a doubt, whether certain persons claiming pensions under these resolutions were in the service of the United States, it is declared that all persons who have been or shall be drawn forth for the common defence, or have turned out, or shall turn out to oppose the enemy on a sudden emergency, shall be entitled to the pension allowed for like disabilities provided for by said resolution of 26th August, 1776 ; provided, that such of said persons being capable of doing guard or garrison duty, shall be subject thereto, with certain exceptions.

3. And such persons aforesaid, as, by various causes specified, may not be able to produce the certificates of evidence required, shall, upon showing to the governor, &c., of the State to which they belong, satisfactory proof that they were so disabled, and producing his certificate thereof, shall be entitled to receive the pension designated.

RESOLUTION—IN CONGRESS, SEPTEMBER 25, 1778.

The Board of War brought in a report, which was taken into consideration : Whereupon, Congress came to the following resolution :

1. Whereas, Congress, by a resolve passed on the 26th of August 1776, made provision for commissioned and non-commissioned officers of the army and navy, as also for the private soldiers, marines, and seamen, who should thereafter lose a limb in any engagement, or be otherwise so disabled in the service of the United States of America, as to render them incapable afterwards of getting a livelihood ; and, whereas, divers officers and others have lost limbs, or been otherwise disabled as aforesaid, before the said 26th of August, to whom the like relief ought equitably equally to be extended :

Resolved, That all provisions and regulations contained in the said resolve of August 26, 1776, shall extend to all persons who lost a limb or were otherwise disabled as aforesaid in the service of the United Colonies or States of America, before the said 26th of August, and since the commencement of hostilities on the 19th of April, 1775.

2. And whereas doubts may arise in some cases, whether certain persons maimed or disabled and claiming pensions, were at the time in the service of the said colonies or States : for removing the same,

Resolved, That every commissioned and non-commissioned officer and private man who, since the commencement of hostilities, as aforesaid, has been, or hereafter shall be, drawn forth for the common defence, (and not for the service of any particular State,) or who has turned out, or shall hereafter turn out, voluntarily to oppose the enemies of the said United Colonies or States, upon any sudden attack or invasion, or upon any enterprise carried on under their authority, and in such service has lost or shall lose a limb, or has been or shall be otherwise disabled as aforesaid, shall be entitled to the pension allowed in said resolve of August 26th, 1776 ; provided, that any such commissioned or non-commissioned officer or private man, being found capable of doing guard or garrison duty, shall be subject thereto, and serve in the corps of invalids when required, or on refusing so to do, shall be struck off the list of pensioners ; unless the person so refusing have a family, or be otherwise peculiarly circumstanced, and the Governor or President and Council of the State he belongs to, or in which he resides, are of opinion an exception should be made in his favor, and an exemption granted him from such service, a certificate of which opinion he shall produce, previous to his receiving his pension.

3. And whereas it may happen that many persons, maimed or disabled as aforesaid, by reason of their falling into the hands of the enemy, the deaths of their officers and surgeons, or other accidents, may not have it in their power to procure the certificates required by the aforementioned resolve, to entitle them to their pensions,

Resolved, That in such cases applications be made to the Governor or President and Council of the State to which any person maimed or disabled as aforesaid belongs, or in which he resides, and upon shewing to him or them satisfactory proof that he was maimed or disabled in the manner before mentioned, and producing his or their certificate thereof, he shall be entitled to and receive a pension in like manner as if he produced the certificate required by the said resolve.

[4.]

[*Laws of the U. S., vol. 1, page 689—a note.*]

[One year's additional pay granted to supernumary officers omitted in the new arrangement.]

RESOLUTION—IN CONGRESS, NOVEMBER 24, 1778.

Whereas, from the alteration of the establishment, and other causes, many valuable officers have been, and may be, omitted in

the new arrangement, as being supernumerary, who, from their conduct and services, are entitled to the honorable notice of Congress, and to a suitable provision until they can return to civil life with advantage,

Resolved, therefore, That Congress gratefully acknowledge the faithful services of such officers, and that all supernumerary officers be entitled to one year's pay of their commissions, respectively, to be computed from the time such officers had leave of absence from the commander-in-chief on this account. And Congress do earnestly recommend to the several States, to which such officers belong, to make such further provision for them as their respective circumstances and merits may entitle them to.

[5.]

[*Journals of Congress*, 1779, vol. 3, 285.]

[Continental officers exchanged, &c., entitled to one year's pay.]

RESOLUTION—IN CONGRESS, MAY 22, 1799.

Resolved, That all continental officers who are or may be exchanged, and not continued in the service, be, after such exchange, considered as supernumerary officers, and entitled to the pay provided by a resolution of Congress of the 24th of November last.

[6.]

[*Laws of the U. S.*, vol. 1, page 631.]

[Half pay for seven years granted to officers, &c., extended to widows and orphans of those officers, &c.]

RESOLUTION—IN CONGRESS, AUGUST 24, 1780.

Resolved, That the resolution of the 15th day of May, 1778, granting half pay for seven years to the officers of the army who should continue in service to the end of the war, be extended to the widows of those officers who have died, or shall hereafter die, in the service; to commence from the time of such officers' death, and continue for the term of seven years; or, if there be no widow, or in case of her death or intermarriage, the said half pay be given to the orphan children of the officer dying as aforesaid, if he shall have left any; and that it be recommended to the Legislatures of the respective States to which such officers belong, to make provision for paying the same, on account of the United States:

That the restricting clause in the resolution of May 15th, 1778, granting half pay to the officers for seven years, expressed in these words, viz: "and not hold any office of profit under these States, or any of them," be, and is hereby, repealed.

[7.]

[*Laws of the U. S., vol. 1, page 688—a note.*]

[Half pay for life granted to officers continuing in service to the end of the war.]

RESOLUTION—IN CONGRESS, OCTOBER 21, 1780.

Resolved, That the officers who shall continue in the service to the end of the war, shall also be entitled to half pay during life, to commence from the time of their reduction.

[8.]

[*Laws of the U. S., vol. 1, page 688—a note.*]

[Half pay to certain officers changed to certain rates of compensation.]

RESOLUTION—IN CONGRESS, JANUARY 17, 1781.

Resolved, That all officers in the hospital department and medical staff, hereinafter mentioned, who shall continue in service to the end of the war, or be reduced before that time, as supernumeraries, shall be entitled to, and receive, during life, in lieu of half pay, the following allowance, viz :

The director of the hospital equal to the half pay of a lieutenant colonel.

Chief physicians and surgeons of the army and hospitals, and hospital physicians and surgeons, purveyor, apothecary, and regimental surgeons, each equal to the half pay of a captain.

[9.]

[*Journals of Congress, 1781, vol. 3, page 626.*]

[Depreciation of pay allowed to officers of the flying camp returned from captivity.]

RESOLUTION—IN CONGRESS, MAY 26, 1781.

On the report of a committee, consisting of Mr. Varnum, Mr. Motte, Mr. Carroll, to whom was referred a letter of J. Howell, auditor of accounts in the main army :

Resolved, That the officers of the flying camp, lately returned from captivity, be allowed depreciation by their respective States, in the same manner as officers of the line in such States :

That in settling the accounts of officers returned from captivity, and who are entitled to the benefit of the resolutions of the 24th of November, 1778, and 22d May, 1779, the auditors allow the year's pay mentioned in said resolutions, in bills of the new emission, issued agreeably to the resolution of 18th March, 1780, and which shall be paid by the paymaster general :

That auditors of the army cannot take notice of breaches of parole till the same be ascertained by courts-martial, and that the pay of such officers will vary from that of other officers, according to the sentence, and not otherwise.

[10.]

[*Laws of the U. S., vol. 1, page 687.*]

[Pay and subsistence, and depreciation of pay, made good to certain officers, &c.]

RESOLUTION—IN CONGRESS, DECEMBER 31, 1781.

Resolved, That all officers of the line of the army, below the rank of brigadier general, who do not belong to the line of any particular State, or separate corps of the army, and are entitled by acts of Congress to pay and subsistence, shall have the same, with the depreciation of their pay, made good to the first day of January, 1782.

Resolved, That the Secretary of War be, and he is hereby, directed to make returns to Congress, on or before the 20th day of January, 1782, of the names and rank of all the officers necessary to be retained in service, that are included in the preceding resolution.

Resolved, That all officers included in the foregoing description, and whose names shall not be inserted in the returns directed to be made by the preceding resolution, shall be considered as retiring from service on the first day of January, 1782: provided, always, that nothing contained in these resolutions shall be construed so as to prevent or hinder any officer that shall retire as aforesaid from enjoying all the emoluments that he may, upon retiring, be entitled to by any former acts of Congress.

[11.]

[*Journals of Congress, 1782, vol. 4, page 18.*]

[Five dollars per month allowed to sick and wounded of the army unfit for further duty.]

RESOLUTION—IN CONGRESS, APRIL 23, 1782.

On a report from the Secretary at War, of the 23d of March, 1782,

Resolved, That all such sick and wounded soldiers of the armies of the United States, who shall in future be reported by the inspector general, or the inspector of a separate department, and approved by the commander-in-chief, or commanding officer of a separate department, as unfit for further duty, either in the field or in garrison, and who apply for a discharge in preference to being placed or continued in the corps of invalids, shall be discharged, and be entitled to receive as a pension five dollars per month, in lieu of all pay and emoluments.

Resolved, That it be, and hereby is, recommended to the several States to discharge such pensions annually, and draw on the superintendent of finance for the payment of the money they shall so advance.

[12.]

[*Laws of the U. S., vol. 1, page 687.*]

[Commutation for five years' full pay, in lieu of half pay for life, the latter being considered odious.]

1. Half pay viewed in an unfavorable light: Commutation solicited. 2. Five years' full pay in lieu of half pay for life. 3. The same commutation to corps not belonging to lines of particular States. 4. Officers belonging to the hospital department, and such as have retired, &c., may accept or refuse.

RESOLUTION—IN CONGRESS, MARCH 22, 1783.

On the report of a committee, consisting of Mr. Hamilton, Mr. Dyer, and Mr. Bedford, to whom was referred a motion of Mr. Dyer, together with the memorial of the officers of the army, and the report of the committee thereon, Congress came to the following resolutions:

1. Whereas the officers of the several lines under the immediate command of his excellency General Washington, did, by their late memorial, transmitted by their committee, represent to Congress that the half pay granted by sundry resolutions was regarded in an unfavorable light by the citizens of some of these States, who would prefer a compensation for a limited term of years, or by a sum in gross, to an establishment for life; and did, on that account, solicit a commutation of their half pay for an equivalent in one of the two modes above mentioned, in order to remove all subject of dissatisfaction from the minds of their fellow-citizens: and whereas Congress are desirous, as well of gratifying the reasonable expectations of the officers of the army, as removing all objections which may exist, in any part of the United States, to the principle of the half pay establishment, for which the faith of the United States hath been pledged; persuaded that those objections can only arise from the nature of the compensation, not from any indisposition to compensate those whose services, sacrifices, and sufferings, have so just a title to the approbation and rewards of their country:

2. *Therefore, resolved*, That such officers as are now in service, and shall continue therein to the end of the war, shall be entitled to receive the amount of five years' full pay in money, or securities on interest at six per cent. per annum, as Congress shall find most convenient, instead of the half pay promised for life by the resolution of the 21st day of October, 1780; the said securities to be such as shall be given to other creditors of the United States: provided, it be at the option of the lines of the respective States, and not of officers, individually, in those lines, to accept or refuse the same; and provided, also, that their election shall be signified to Congress through the commander-in-chief, from the lines under his immediate command, within two months, and through the commanding officer of the southern army, from those under his command, within six months, from the date of this resolution:

3. The same commutation shall extend to the corps not belonging to the lines of particular States, and who are entitled to half

pay for life, as aforesaid; the acceptance or refusal to be determined by corps, and to be signified in the same manner, and with in the same time, as above mentioned:

4. That all officers belonging to the hospital department, who are entitled to half pay by the resolution of the 17th day of January, 1781, may, collectively, agree to accept or refuse the aforesaid commutation, signifying the same through the commander in-chief, within six months from this time: that such officers who have retired at different periods, entitled to half pay for life, may, collectively, in each State of which they are inhabitants, accept or refuse the same; their acceptance or refusal to be signified by agents authorized for that purpose, within six months from this period: that with respect to such retiring officers, the commutation, if accepted by them, shall be in lieu of whatever may be now due to them since the time of their retiring from service, as well as of what might hereafter become due; and that so soon as their acceptance shall be signified, the superintendent of finance be and he is hereby, directed to take measures for the settlement of their accounts accordingly, and to issue to them certificates, bearing interest at six per cent. That all officers entitled to half pay for life, not included in the preceding resolution, may also, collectively, agree to accept or refuse the aforesaid commutation, signifying the same within six months from this time.

[13.]

[*Laws of the U. S., vol. 1, page 690—a note.*]

[Half pay forbidden except to those officers to whom it is heretofore promised.]

RESOLUTION—IN CONGRESS, JANUARY 26, 1784.

On the report of a committee, consisting of Mr. Williams, Mr. Tilton, and Mr. Monroe, to whom were referred a memorial of Joseph Ward, and a petition of R. Forthingham,

Resolved, That half pay cannot be allowed to any officer, or to any class or denomination of officers, to whom it has not heretofore been expressly promised.

[14.]

[*Laws of the U. S., vol. 1, page 690.*]

[Certain officers entitled to half pay or commutation.]

RESOLUTION—IN CONGRESS, MARCH 8, 1785.

Resolved, That the officers who retired under the resolve of the 31st of December, 1781, are, equally, entitled to the half pay or commutation, with those officers who retired under the resolve of the 3d and 21st October, 1780.

[15.]

[*Laws of the U. S., vol. 1, page 690.*]

[Recommendation of Congress to the States to provide for invalids of the army and navy, resident in the States respectively.]

1. List to be made out. 2. Certificate necessary. 3. Pensions to disabled officers equal to half pay, and rateable allowance to non-commissioned officers and privates. 4. Each State to appoint persons to examine claimants. 5. Each State authorized to pay. 6. Any State may form invalid corps. 7. Quarterly returns of invalid corps. 8. Invalids to take an oath. 9. Magistrates to send affidavits.

RESOLUTION—IN CONGRESS, JUNE 7, 1785.

Resolved, That it be, and it is hereby, recommended to the several States, to make provision for officers, soldiers, or seamen, who have been disabled in the service of the United States, in the following manner :

1. A complete list shall be made out, by such person or persons as each State shall direct, of all the officers, soldiers, or seamen, resident in their respective States, who have served in the army or navy of the United States, or in the militia, in the service of the United States, and have been disabled in such service, so as to be incapable of military duty, or of obtaining a livelihood by labor. In this list shall be expressed the pay, age, and disability of each invalid ; also the regiment, corps, or ship, to which he belonged ; and a copy of the same shall be transmitted to the office of the Secretary of War, within one year after each State shall pass a law for this purpose ; and a like descriptive list of the invalids resident in the respective States shall, from year to year, be annually transmitted to the office of the Secretary of War.

2. No officer, soldier, or seaman, shall be considered as an invalid, or entitled to pay, unless he can produce a certificate from the commanding officer or surgeon, of the regiment, ship, corps, or company, in which he served, or from a physician or surgeon of a military hospital, or other good and sufficient testimony, setting forth his disability, and that he was disabled while in the service of the United States.

3. That all commissioned officers within the aforesaid description, disabled in the service of the United States, so as to be wholly incapable of military duty, or of obtaining a livelihood, be allowed a yearly pension, equal to half their pay respectively : and all commissioned officers as aforesaid, who shall not have been disabled in so great a degree, be allowed a yearly pension, which shall correspond with the degree of their disability, compared with that of an officer wholly disabled : that all non-commissioned officers and privates within the aforesaid description, disabled in the service of the United States, so as to be wholly incapable of military or garrison duty, or of obtaining a livelihood by labor, be allowed a sum not exceeding five dollars per month, and all non-commissioned officers and privates as aforesaid, who shall not have been disabled in so great a degree, be allowed such

a sum as shall correspond with the degree of their disability, compared with that of a non-commissioned officer or private wholly disabled.

4. That each State appoint one or more persons, of suitable abilities to examine all claimants, and to report whether the person producing a certificate, setting forth that he is an invalid, be such in fact, and if such, to what pay he is entitled; and thereupon the persons appointed to make such inquiry shall give to the invalid a certificate, specifying to what pay he is entitled, and transmit a copy to the person who may be appointed by the State to receive and record the same.

5. That each State be authorized to pay to the commissioned officers, non-commissioned officers, and privates, the sum or sums to which they shall be respectively entitled, agreeably to the before-mentioned certificates; the said payments to be deducted from the respective quotas of the States, for the year on which they shall be made: provided, that no officer who has accepted his commutation for half pay, shall be entered on the list of invalids, unless he shall have first returned his commutation.

6. That any State may form such invalids under the aforesaid description, as are citizens of the same, and are capable of garrison duty, into corps, to be employed in guarding military stores, aiding the police, or otherwise, as the State may direct.

7. That when invalids shall be formed into corps, there be quarterly returns, comprehending the pay, age, disability, regiment, ship, or corps, to which they severally belonged, made out and signed by their commanding officer, and transmitted to such person or persons as the State shall direct, that their pay may be ordered according to the said return.

8. That all invalids, as well those formed into corps as those who are not, shall, annually, apply themselves to a magistrate of the county in which they reside, or may be stationed, and take the following oath, viz: "A. B. came before me, one of the justices for the county of —, in the State of —, and made oath, that he was examined by —, appointed by the said State (or Commonwealth) for that purpose, obtained a certificate, (or had his certificate examined and countersigned,) setting forth that he had served in —, that he was disabled by —, and that he now lives in the —, and in the county of —."

9. That the affidavits, drawn according to the above form, and dated and attested by a magistrate, be sent, by the said magistrate, to the person or persons appointed by the State to receive and record the same, and that a counterpart of the affidavit be preserved by the person taking it, to be exhibited to such persons as shall be appointed by the State to pay the invalids.

[16.]

[*Laws of the U. S., vol. 1, page 691.*]

[Certain claims exhibited after the time specified, barred, &c.]

RESOLUTION—IN CONGRESS, NOVEMBER 2, 1785.

On a report of the Board of Treasury, to whom was referred a letter of the 24th October, from J. Pierce, commissioner of army accounts,

Resolved, That all persons having claims for services performed in the military department, be directed to exhibit the same for liquidation to the commissioner of army accounts, on or before the first day of August, ensuing the date hereof; and that all claims, under the description above-mentioned, which may be exhibited after that period, shall forever thereafter be precluded from adjustment or allowance, and that the commissioner of army accounts give public notice of this resolve in all the States, for the term of six months.

[17.]

[*Laws of the U. S., vol. 1, page 692.*]

[Invalid officers permitted to return the amount of their commutation in other securities.]

RESOLUTION—IN CONGRESS, SEPTEMBER 14, 1786.

On a report of the commissioner of army accounts, to whom was referred a memorial of James Grigg, late a captain in the service of the United States,

Resolved, That invalid officers be permitted to return the amount of their commutation in other securities of the United States, where they have parted with their own; provided, the same shall be of equal amount, and bearing the same interest.

[18.]

[*Journals of Congress, 1787, vol. 4, page 757.*]

[Officers previous to the receipt of pension to deposite certificate that no balance is due from them]

RESOLUTION—IN CONGRESS, JULY 12, 1787.

On a report of the Board of Treasury,

Resolved, That all officers in the line of the late army, who may be entitled to pensions, in pursuance of the acts of Congress in that behalf made, shall, previous to the receipt of such pension, deposite with the proper officers appointed to discharge the same in the State in which they reside, a certificate from the commissioner of army accounts, purporting that no balance is due from the claimant to the United States.

[19.]

[*Laws of the U. S., vol. 1, page 692.*]

[Certain claims not presented as specified, barred.]

RESOLUTION—IN CONGRESS, JULY 23, 1787.

On motion of Mr. Dane, seconded by Mr. Holton,

Resolved, That all persons having unliquidated claims against the United States, pertaining to the late commissary's, quartermaster's, hospital, clothier's, or marine department, shall exhibit particular abstracts of such claims, to the proper commissary appointed to settle the accounts of those departments, within eight months from the date hereof; and all persons having of unliquidated claims against the United States, shall exhibit a particular abstract thereof to the comptroller of the Treasury of the United States within one year from the date hereof; and all claims not exhibited as aforesaid shall be precluded from settlement or allowance.

[20.]

[*Laws of the U. S., vol. 2, page 355—a note.*]

[Each State shall have credit with the United States for invalid pensions.]

RESOLUTION—IN CONGRESS, JUNE 11, 1788.

On the report of a committee consisting of Mr. Dane, Mr. Holton, and Mr. Brown, to whom was referred a petition of John Buchanan, and other invalids, and who were ordered to take into consideration the invalid establishment,

Resolved, That each State shall have credit in its general account with the United States, for such sums as became due to invalids before the first day of January, 1782, and which have been or shall be paid to them by the State; and for such sums as became due to invalids from the said first day of January, 1782, inclusive, to the first day of January, 1788, and which have been or shall be, paid to them by any State, the State shall have credit in the existing specie requisitions of Congress; and for sums that may so become due after January, 1788, and be paid by any State, the State shall have credit in the specie requisitions of Congress which may hereafter be made.

Resolved, That no person shall be entitled to a pension as an invalid who has not, or shall not before the expiration of twelve months from this time, make application therefor, and produce requisite certificates and evidence to entitle him thereto.

MILITARY PENSION LAWS

OF

THE UNITED STATES.

WITH OCCASIONAL ADMIXTURE OF NAVY PENSION PROVISIONS.

[1.]

[*Laws of the U. S., vol. 2, page 73.*]

CHAP. 24. An act providing for the payment of the invalid pensioners of the United States.*

Military pensions granted and paid by the States, to be paid by the United States for the space of a year.

APPROVED, SEPTEMBER 29, 1789.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the military pensions which have been granted and paid by the States, respectively, in pursuance of the acts of the United States in Congress assembled, to the invalids who were wounded and disabled during the late war, shall be continued and paid by the United States, from the fourth day of March last, for the space of one year, under such regulations as the President of the United States may direct.

[2.]

[*Laws of the U. S., vol. 2, page 99.*]

CHAP. 37. An act for regulating the military establishment of the United States.†

1. One thousand two hundred and sixteen non-commissioned officers, privates, &c. for three years. 2. Height, five feet six inches; and age, eighteen to forty-six years. 3. One regiment of infantry, and a battalion of artillery: Composition of the regiment of infantry: Composition of the battalion of artillery. 11. Pensions to invalids: Proviso; as to amount of pension: Proviso; as to inferior disabilities. 12. Officers, privates, &c. to take an oath: Form of the oath.

APPROVED, APRIL 30, 1790.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the commissioned officers hereinafter mentioned, and the number

* Expired, 4th March, 1790: Supplied by act of July 16, 1790, chap. 54, post.

† Repealed by act of 3d March, 1795, sec. 18, chap. 285, post., and supplied by the same act.

of one thousand two hundred and sixteen non-commissioned officers, privates, and musicians, shall be raised for the service of the United States for the period of three years, unless they should previously by law be discharged.

SEC. 2. *And be it further enacted*, That the non-commissioned officers and privates aforesaid, shall, at the time of their enlistments, respectively, be able-bodied men, not under five feet six inches in height, without shoes; nor under the age of eighteen nor above the age of forty-six years.

SEC. 3. *And be it further enacted*, That the commissioned officers hereinafter mentioned, and the said non-commissioned officers, privates, and musicians, shall be formed into one regiment of infantry, to consist of three battalions, and one battalion of artillery. The regiment of infantry to be composed of one lieutenant colonel commandant, three majors, three adjutants, three quartermasters, one paymaster, one surgeon, two surgeon's mates, and twelve companies, each of which shall consist of one captain, one lieutenant, one ensign, four sergeants, four corporals, sixty-six privates and two musicians. The battalion of artillery shall be composed of one major commandant, one adjutant, one quartermaster, one paymaster, one surgeon's mate, and four companies; each of which shall consist of one captain, two lieutenants, four sergeants, four corporals, sixty-six privates, and two musicians.

SEC. 11. *And be it further enacted*, That if any commissioned officer, non-commissioned officer, private, or musician, aforesaid shall be wounded or disabled, while in the line of his duty in public service, he shall be placed on the list of the invalids of the United States, at such rate of pay and under such regulations as shall be directed by the President of the United States, for the time being: *Provided, always*, That the rate of compensation for such wounds or disabilities shall never exceed, for the highest disability, half the monthly pay received by any commissioned officer at the time of being so wounded or disabled; and that the rate of compensation to non-commissioned officers, privates, and musicians, shall never exceed five dollars per month: *And provided, also*, That all inferior disabilities shall entitle the person so disabled to receive only a sum in proportion to the highest disability.

SEC. 12. *And be it further enacted*, That every commissioned officer, non-commissioned officer, private, and musician, aforesaid shall take and subscribe the following oath or affirmation, to wit: "I, A. B., do solemnly swear or affirm (as the case may be) to bear true allegiance to the United States of America, and to serve them honestly and faithfully, against all their enemies or opposers whomsoever, and to observe and obey the orders of the President of the United States of America, and the orders of the officers appointed over me, according to the articles of war."

[3.]

[*Laws of the U. S., vol. 2, page 113.*]

CHAP. 54. An act further to provide for the payment of the invalid pensioners of the United States.*

Military pensions to be paid from 4th March, 1790, for one year.

APPROVED, JULY 16, 1790.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the military pensions which have been granted and paid by the States, respectively, in pursuance of former acts of the United States in Congress assembled, and such as, by acts passed in the present session of Congress, are, or shall be, declared to be due to invalids who were wounded and disabled during the late war, shall be continued and paid by the United States, from the fourth day of March last, for the space of one year, under such regulations as the President of the United States may direct.

[4.]

[*Laws of the U. S., vol. 2, page 182.*]

CHAP. 71. An act for the relief of disabled soldiers and seamen, lately in the service of the United States, and of certain other persons.

1. Names of persons to whom pensions are allowed. 2. Three hundred forty-eight dollars fifty-seven cents, and pension, allowed to Caleb Brewster. 3. Pension allowed to Nathaniel Gove. 4. Commissioner of army accounts to settle pay, &c. of the persons herein named. 5. The pensions to be paid according to laws made, or that hereafter may be made. 6. Allowance to Seth Harding.

APPROVED, AUGUST 11, 1790.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Stephen Califfe, Jeremiah Ryan, Joseph M'Gibbon, Samuel Garretson, Ephraim M'Coy, Christian Khun, David Steele, Joseph Shuttliet, and David Culver, disabled soldiers, lately in the service of the United States, be allowed pensions, at the rate of five dollars per month, from the time their pay in the army, respectively, ceased. That Christian Wolfe, a disabled soldier, be allowed a pension, at the rate of four dollars per month, from the date of his discharge. That Edward Scott, a disabled soldier, be allowed a pension, at the rate of three dollars per month, from the date of his discharge. That David Weaver and George Schell, disabled soldiers, be, each, allowed a pension, at the rate of two dollars per month, from the date of their respective discharges. That Seth Boardman, a disabled soldier, be allowed a pension, at the rate of three dollars and one third of a dollar per month, from the seventeenth day of March, one thousand seven

* Supplied by act of 3d March, 1791; sec. 2, chap. 98, post.

hundred and eighty-six. That Severinus Koch, a disabled captain of colonel Jacob Klock's regiment of New York militia, be allowed a pension, at the rate of five dollars per month, from the twentieth day of August, one thousand seven hundred and seventy-seven. That John Younglove, a disabled major, of colonel Lewis Van Woort's regiment of New York militia, be allowed a pension, at the rate of six dollars per month, from the thirtieth day of July, one thousand seven hundred and eighty-one. That William White, a disabled private, of colonel Williams's regiment of New York militia, be allowed a pension, at the rate of three dollars and one third of a dollar per month, from the first day of April, one thousand seven hundred and eighty-six. That Jacob Newkerk, a disabled soldier, of colonel John Harper's regiment of New York State troops, be allowed a pension, at the rate of three dollars per month, from the twenty-second day of October, one thousand seven hundred and eighty. That David Pole, a disabled seaman, lately in the service of the United States, be allowed a pension of five dollars per month, to commence on the fifth of March, one thousand seven hundred and eighty-nine.

Sec. 2. *And be it further enacted*, That Caleb Brewster, lately a lieutenant, who was wounded and disabled in the service of the United States, be allowed three hundred forty-eight dollars and fifty-seven cents, the amount of his necessary expenses, for sustenance and medical assistance, while dangerously ill of his wounds, including the interest, to the first of July, one thousand seven hundred and ninety. And that the said Brewster be allowed a pension equal to his half pay as lieutenant, from the third of November, one thousand seven hundred and eighty-three, he first having returned his commutation of half pay.

Sec. 3. *And be it further enacted*, That Nathaniel Gove, a disabled lieutenant, lately in the service of the United States, be allowed a pension, at the rate of six dollars and two-thirds of a dollar per month, from the twentieth of May, one thousand seven hundred and seventy-eight, to the first day of July, one thousand seven hundred and eighty-six, and that he be allowed at the rate of thirteen dollars and one-third of a dollar per month, from the said first day of July, one thousand seven hundred and eighty-six.

Sec. 4. *And be it further enacted*, That the commissioner of army accounts be authorized and directed to settle the pay, and depreciation of pay, of John Stevens, a hostage in the late war, at the capitulation of the Cedars, as a captain in the line of the army, and that he issue certificates accordingly. That he also issue a certificate to Charles Markley, lately a captain in Armand's corps, for the commutation of his half pay. That he also settle the accounts of James Derry and Benjamin Hardison, who were made prisoners in Canada, in May, one thousand seven hundred and seventy-six, and forcibly detained in captivity among the Indians, and that he issue certificates for the balance of their pay, respectively, to the third of November, one thousand seven hundred and eighty-three.

Sec. 5. *And be it further enacted*, That the several pensions mentioned in this act, due, or to become due, from the fifth of March, one thousand seven hundred and eighty-nine, shall be paid, according to such laws as have been made, or shall be made, relative to invalid pensioners: And that the arrears* of the said pensions, due before the said fifth day of March, one thousand seven hundred and eighty-nine, shall be paid in such manner as Congress may hereafter provide for paying the arrears of pensions.

Sec. 6. *And be it further enacted*, That there shall be allowed to Seth Harding, for three months and ten days' service, on board the Alliance frigate, during the late war, at the rate of sixty dollars per month, being the pay of a captain, to be paid out of the moneys arising from imposts and tonnage.

[5.]

[*Laws of the U. S., vol. 2, page 184.*]

CHAP. 72. An act for the relief of the persons therein mentioned or described.†

1. Register of the Treasury to grant a certificate to Lady Stirling, for a sum equal to an annuity for seven years' half pay of a major general. 2. Register of the Treasury to grant a certificate to Frances E. Laurens, for a sum equal to an annuity for seven years' half pay of a lieutenant colonel: Arrears of pensions. 3. Register of the Treasury to issue certificates for arrears of pensions: Certificates to pass to heirs, &c. 4. Register of the Treasury to grant certificates to widows and orphans of officers and soldiers entitled to pensions.

APPROVED, AUGUST 11, 1790.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the register of the Treasury shall, and is hereby required to, grant unto Sarah, the widow of the late major general Earl of Stirling, who died in the service of the United States, a certificate to entitle her to a sum equal to an annuity for seven years' half pay of a major general, to commence as from the fourteenth day of January, one thousand seven hundred and eighty-three, in conformity to the act of the late Congress, passed on the twenty-fourth day of August, one thousand seven hundred and eighty;‡ the amount for which the said certificate is to be granted, to be ascertained by the Secretary of the Treasury, and on similar principles as their debts of the United States are liquidated and certified.

Sec. 2. *And be it further enacted*, That the said register shall grant unto Frances Eleanor Laurens, the orphan daughter of the late lieutenant colonel John Laurens, who was killed whilst in the service of the United States, a certificate to entitle her to a sum equal to an annuity for seven years' half pay of a lieutenant

* Arrears of pensions, &c. See act of August 11, 1790, post. sec. 3, chap. 72; and act of March 23, 1792, chap. 112, post.

† Obsolete.

‡ See resolution of that date—*ante*.

colonel, to commence as from the twenty-fifth day of August, or thousand seven hundred and eighty-two, according to the act of the late Congress, of the twenty-fourth day of August, one thousand seven hundred and eighty;* the amount for which the said certificate is to be granted, to be ascertained by the Secretary of the Treasury in manner aforesaid.

And whereas no provision hath heretofore been made for discharging the arrears of pensions due to officers, non-commissioned officers, and soldiers, who were wounded and disabled whilst in the service of the United States: Therefore,

SEC. 3. *Be it further enacted*, That each of the officers, non-commissioned officers, and soldiers, who were so wounded and disabled, and who are now placed on the books in the office of the Secretary of the department of war, as a pensioner, or to be placed in conformity to any law of this Congress, shall receive from the Register of the Treasury, who is hereby required to grant the same, a certificate, to be liquidated and settled in such manner as the Secretary of the Treasury shall direct, for a sum equal to the pension annually due to him, to commence from the time he became entitled thereto, or from the time to which the same had been paid, as the case may be, which shall be ascertained and certified by the said Secretary for the department of war, and which annuity shall be liquidated to the fourth day of March, one thousand seven hundred and eighty-nine, from which day the United States have assumed the payment of the pensions certified by the several States. And in case of the death of any person so entitled, the certificate shall pass to his heirs or legal representative or representatives.

SEC. 4. *And be it further enacted*, That the widow or orphan of each officer, non-commissioned officer, or soldier, who was killed or died whilst in the service of the United States, and who is now placed on the books in the office of the said Secretary as entitled to a pension, by virtue of any act of the said late Congress, or any law of this Congress, and for whom provision has not been made by any State, and to whom any arrears of such pension are due, and which have arisen prior to the said fourth day of March, one thousand seven hundred and eighty-nine, shall receive a certificate therefor, in like manner, and on the same principles, as certificates are by this act directed to be given to officers, non-commissioned officers, and soldiers, who were wounded or disabled: aforesaid.

* See resolution of that date—*ante*.

[6.]

[*Laws of the U. S., vol. 2, page 227.*]

CHAP. 98. An act to continue in force the act therein mentioned, and to make further provision for the payment of pensions to invalids.

Pensions to invalids for one year, from the 4th March, 1792, to be paid out of the treasury.

APPROVED, MARCH 3, 1791.

SEC. 2. *And be it further enacted*, That the yearly pensions which have been allowed by or in pursuance of any act or law of the United States, to persons who were wounded and disabled during the late war, shall, for the space of one year from the fourth day of March next, be paid out of the treasury of the United States, under such regulations as the President of the United States may direct.*

[7.]

[*Laws of the U. S., vol. 2, page 237.*]

CHAP. 103. An act for the relief of David Cook and Thomas Campbell.†

1. David Cook allowed a pension equal to one-third his monthly pay: *Provido*; as to return of two-thirds of commutation. 2. Thomas Campbell allowed the half pay of a captain of infantry: *Provido*; as to return of his commutation.

APPROVED, DECEMBER 16, 1791.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That David Cook, a captain of artillery in the late war, and who, being shot through the body at the battle of Monmouth, is rendered incapable to obtain his livelihood by labor, shall be placed on the pension list of the United States, and shall be entitled to one-third of his monthly pay as a captain of artillery: *Provided*, That he return into the treasury office a sum equivalent to two-thirds of his commutation of half pay, being the proportion of his pension to the amount of his commutation.

SEC. 2. *And be it further enacted*, That Thomas Campbell be placed on the pension list, and that the half pay of a captain of infantry be allowed to the said Thomas Campbell, who has been so injured by repeated wounds in the service of his country that he is unable to support himself by labor: *Provided*, That he return into the treasury office a sum equivalent to the whole of his commutation of half pay.

* See act of 8th May, 1792, sec. 2, ch. 136, post.

† Private and obsolete.

[8.]

[*Laws of the U. S., vol. 2, page 256.*]

CHAP. 110. An act for making further and more effectual provision for the protection of the frontiers of the United States.

Oaths, regulations, and compensations, according to the act mentioned.

APPROVED, MARCH 5, 1792.

SEC. 11. *And be it further enacted*, That all the commissioned and non-commissioned officers, privates, and musicians, of the said three regiments, shall take the same oaths, shall be governed by the same rules and regulations, and, in cases of disabilities, shall receive the same compensations as are described in the before-mentioned act, entitled "An act for regulating the military establishments of the United States."^{*}

[9.]

[*Laws of the U. S., vol. 2, page 259.*]

CHAP. 112. An act to provide for the settlement of the claims of widows and orphans, barred by the limitations heretofore established, and to regulate the claims to invalid pensions.[†]

1. Two resolutions, barring claims, &c. suspended for two years. 2. Officers, soldiers, seamen, &c. not having received commutation, disabled, may be placed on the pension list: To be allowed, also, for arrears of pension: Rules and regulations concerning applications for pensions. 3. Clerks of district courts to publish this act as directed: District judge authorized to act where no circuit court is holden: Judges of circuit courts to remain five days, to afford opportunity for applications. 4. Secretary of War to file proofs, and place applicant's name on the pension list: Proviso; discretionary power in the Secretary, where he suspects imposition. 5. Non-commissioned officers, &c. who had not applied in time, to be placed on the pension list. 6. Sale, &c. of pension, before it is due, not valid: Persons claiming pensions, &c. under power of attorney, to make oath.

APPROVED, MARCH 23, 1792.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the operation of the resolutions of the late Congress of the United States, passed on the second day of November, one thousand seven hundred and eighty-five, and the twenty-third day of July, one thousand seven hundred and eighty-seven,[‡] so far as they have barred, or may be construed to bar, the claims of the widow or orphans of any officer of the late army, to the seven years' half pay of such officer, shall, from and after the passing this act, be suspended for and during the term of two years.[§]

SEC. 2. *And be it further enacted*, That any commissioned officer, not having received the commutation of half pay,^{||} and any non-commissioned officer, soldier, or seaman, disabled in the actual service of the United States, during the late war, by wounds

* Ante, chap. 37.

† See chap. 47.

‡ Repealed, expired, &c.—See the notes, infra.

§ This section expired.

|| See chap. 47.

or other known cause, who did not desert from the said service, shall be entitled to be placed on the pension list of the United States, during life, or the continuance of such disability, and shall also be allowed such further sum for the arrears of pension, from the time of such disability, not exceeding the rate of the annual allowance in consequence of his disability, as the circuit court of the district, in which they respectively reside, may think just. *Provided*, That in every such case, the rules and regulations following shall be complied with; that is to say: First. Every applicant shall attend the court in person, except where it shall be certified by two magistrates that he is unable to do so, and shall produce to the circuit court the following proofs, to wit: A certificate from the commanding officer of the ship, regiment, corps, or company, in which he served, setting forth his disability, and that he was thus disabled while in the service of the United States; or the affidavits of two credible witnesses to the same effect. The affidavits of three reputable freeholders of the city, town, or county, in which he resides, ascertaining, of their own knowledge, the mode of life, employment, labor, or means of support, of such applicant, for the last twelve months. Secondly. The circuit court, upon receipt of the proofs aforesaid, shall forthwith proceed to examine into the nature of the wound, or other cause of disability of such applicant, and, having ascertained the degree thereof, shall certify the same, and transmit the result of their inquiry, in case, in their opinion, the applicant should be put on the pension list, to the Secretary of War, together with their opinion, in writing, what proportion of the monthly pay of such applicant will be equivalent to the degree of disability ascertained in manner aforesaid.*

Sec. 3. *And be it further enacted*, That the clerk of the district court, in each district, shall publish this act in such manner as the judge of the district court shall think effectual to give general information thereof to the people of the district, and shall give like information of the times and places of holding the circuit court in such district. And in districts wherein a circuit court is not directed by law to be holden, the judge of the district court shall be, and he is, authorized to exercise all the powers given by this act to the respective circuit courts. And it shall be the duty of the judges of the circuit courts, respectively, during the term of two years from the passing of this act, to remain at the places where the said courts shall be holden five days, at the least, from the time of opening the sessions thereof, that persons disabled as aforesaid may have full opportunity to make their application for the relief proposed by this act.†

Sec. 4. *And be it further enacted*, That the Secretary of War, upon receipt of the proofs, certificate, and opinion, aforesaid, shall cause the same to be duly filed in his office, and place the name of such applicant on the pension list of the United States, in con-

* This section repealed by act of February 28, 1793; chap. 162, post.

† This section repealed by act of February 28, 1793; chap. 162, post.

formity thereto: *Provided, always,* That in any case where the said Secretary shall have cause to suspect imposition or mistake, he shall have power to withhold the name of such applicant from the pension list, and make report of the same to Congress at their next session.*

SEC. 5. *And be it further enacted,* That all non-commissioned officers, soldiers, and seamen, disabled in the actual service of the United States, during the late war, whose disability and rate of allowance have been ascertained, pursuant to the regulations prescribed by the late Congress,† and have not applied to be placed on the pension list until after the time limited by the act of Congress for that purpose was expired, shall now be placed on the pension list, and be entitled to demand and receive their respective pensions, according to the allowances ascertained as aforesaid, any thing in this act, or any act of the late Congress, to the contrary, notwithstanding.‡

SEC. 6. *And be it further enacted,* That from and after the passing of this act, no sale, transfer, or mortgage, of the whole, or any part, of the pension, or arrearages of pension, payable to any non-commissioned officer, soldier, or seaman, before the same shall become due, shall be valid. And every person claiming such pension, or arrears of pension, or any part thereof, under power of attorney or substitution, shall, before the same is paid, make oath or affirmation, before some justice of the peace of the place where the same is payable, that such power or substitution is not given by reason of any transfer of such pension, or arrears of pension; and any person who shall swear or affirm falsely in the premises, and be thereof convicted, shall suffer as for wilful and corrupt perjury.§

[10.]

[*Laws of the U. S., vol. 2, page 261.*]

CHAP. 114. An act for the relief of certain widows, orphans, invalids, and other persons.

1. The Comptroller of the Treasury to adjust the claims of certain widows and orphans for the seven years' half pay. 2. The Secretary of War to place on the pension list Timothy Mix and Abel Turney. 3. Arrears of pensions. 4. The Comptroller to adjust the accounts of Joseph Pannil: And the account of the late brigadier general Haas: Also, that of Thomas M'Intire. 5. The Comptroller to adjust the account of Francis Suzor Debevere: The account of Robert King: And that of Lemuel Sherman. 6. One hundred acres of land and three hundred and thirty-six dollars to Nicholas F. Westfall.

APPROVED, MARCH 27, 1792.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That

* This section repealed by act of February 28, 1793; chap. 162, post.

† See chap. 47.

‡ This section has been altered by the 3d section of the act of February 28, 1793; chap. 162, post.

§ This section supplied by the 8th section of the act of 10th April, 1806; chap. 25.

the Comptroller of the Treasury adjust the claims of the widows and orphans, respectively, as the case may be, of the late colonel Owen Roberts, captain William White, lieutenant colonel Bernard Elliott, major Samuel Wise, major Benjamin Huger, lieutenant John Bush, and major Charles Motte, deceased, all of whom were killed or died in the service of the United States, for the seven years' half pay stipulated by the resolve of Congress of the twenty-fourth day of August, one thousand seven hundred and eighty;* and that the Register of the Treasury do issue his certificates accordingly.

SEC. 2. *And be it further enacted*, That the Secretary of the Department of War be, and he hereby is, required to place on the invalid list, Timothy Mix, disabled in the late war, by the loss of his right hand, while in the service of the United States, at the rate of five dollars per month, to commence on the fourth day of February, one thousand seven hundred and eighty-three. That the said Secretary place on the invalid list, Abel Turney, mariner, disabled while in the service of the United States, at the rate of one dollar per month, to commence on the first day of January, one thousand seven hundred and eighty-one.

SEC. 3. *And be it further enacted*, That the arrears of the said pensions be paid as the laws direct in similar cases.

SEC. 4. *And be it further enacted*, That the Comptroller of the Treasury be, and he hereby is, required to adjust the accounts of Joseph Pannil, a lieutenant colonel in the service of the United States, as a deranged officer, upon the principles of the act of the late Congress, of the third of October, one thousand seven hundred and eighty, and to allow him the usual commutation of the half pay for life of a lieutenant colonel, and that the Register of the Treasury be, and he hereby is, required to grant a certificate for the amount of the balance due to him. That the Comptroller adjust the account of the late brigadier general de Haas, admitting to the credit of the same account such sums as, by evidence, shall appear to have been advanced for the public service, and which have been charged by the United States to the officers who have received the same for the public service, and that the said Register do grant a certificate for the balance due on such settlement. That the said Comptroller adjust the account of Thomas M'Intire, a captain in the service of the United States, during the late war, and allow him the usual commutation of the half pay for life of a captain, and that the said Register grant a certificate for the amount thereof accordingly.

SEC. 5. *And be it further enacted*, That the Comptroller of the Treasury be, and he hereby is, required to adjust the account of Francis Suzor Debevere, a surgeon's mate in the service of the United States, during the late war, and who remained in captivity to the end thereof; and that the Register of the Treasury be, and he hereby is, required to grant a certificate for the amount which

* See resolution of that date—ante.

shall be found due for the services of the said Francis S. Bevere. That the said Comptroller adjust the account of King, as a lieutenant, deranged, upon the principles of the late Congress, passed the twenty-fourth day of November, thousand seven hundred and seventy-eight,* and that the Register grant a certificate accordingly. That the Comptroller adjust the account of Lemuel Sherman, as a sailing master of a galley on Lake Champlain, and as such taken prisoner; and that the said Register grant a certificate accordingly.

Sec. 6. *And be it further enacted*, That there be granted to Nicholas Ferdinand Westfall, who left the British service, and joined the army of the United States, during the late war, one hundred acres of unappropriated land in the western territory of the United States, free of all charges, and also the sum of one hundred and thirty-six dollars, out of any money appropriated for the contingent charges of government.

[11.]

[*Laws of the U. S., vol. 2, page 299.*]

CHAP. 136. An act to continue in force the act, entitled "An act to provide for the granting or remitting penalties," &c., and to make further provision for the pensions to invalids.

Pensions to be paid for one year from the fourth of March last.

APPROVED, MAY 8, 1792.

Sec. 2. *And be it further enacted*, That the yearly pay which have been, or may be allowed by, or in pursuance of any act or law of the United States, to persons who were wounded and disabled in the public service, shall, for the space of one year from the fourth day of March last, be paid out of the treasury of the United States, under such regulations as the President of the United States may direct.

[12.]

[*Laws of the U. S., vol. 2, page 354.*]

CHAP. 162. An act to regulate the claims to invalid pensions.

Former act inadequate. 1. The sections of the act mentioned repealed, and the provisions relative to pensions regulated: Evidence relative to invalids to be on oath: The evidence to prove disability to have been the effect of known wounds, &c., and must be the evidence of the commanding officer, &c.: Every claimant must be examined on oath to produce evidence of the time of his leaving the service: Claimant to show evidence of continuance of disability: Each claimant to show cause why he did not previously apply: No evidence to be admitted in relation to examined and rejected claims. 2. The district judge to transmit a list of claims and the evidence to the Sec-

* See resolution of that date—ante.

War: The Secretary of War to make a statement to Congress. 3. Persons not on the pension list prior to the 23d of March, 1792, not entitled to a pension without complying with the provisions of this act; except, &c.: Measures to be taken by the Secretary of War and Attorney General to obtain an adjudication of the Supreme Court on the validity of rights claimed. 4. No claim to a pension allowed under this act unless presented within two years.

APPROVED, FEBRUARY 28, 1793.

Whereas the act passed at the last session of Congress, entitled "An act to provide for the settlement of the claims of widows and orphans barred by the limitations heretofore established, and to regulate the claims to invalid pensions,"* is found by experience inadequate to prevent the admission of improper claims to invalid pensions, and not to contain a sufficient facility for the allowance of such as may be well founded: Therefore,

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the second, third, and fourth sections of the said act, be repealed, and that, in future, all claims to such pensions shall be regulated in the manner following, to wit:

First: All evidence relative to invalids shall be taken upon oath or affirmation, before the judge of the district in which such invalids reside, or before any three persons specially authorized by commission from the said judge.

Secondly: The evidence relative to any claimant must prove decisive disability to have been the effect of known wounds, received while in the actual line of his duty, in the service of the United States, during the late war. That this evidence must be the affidavits of the commanding officer or surgeon of the ship, regiment, corps, or company, in which such claimant served, or two other credible witnesses, to the same effect, setting forth the time and place of such known wound.

Thirdly: Every claimant shall be examined upon oath or affirmation, by two physicians or surgeons, to be authorized by commission from the said judge, who shall report, in writing, their opinion, upon oath or affirmation, of the nature of the said disability, and in what degree it prevents the claimant from obtaining his livelihood by labor.

Fourthly: Every claimant shall produce evidence of the time of his leaving the service of the United States. He must also produce evidence of three reputable freeholders of the city, town, or county, in which he usually resided, for the two years immediately after he left the service, as aforesaid, of the existence of his disability during that period; and ascertaining, of their own knowledge, the mode of life, employment, labor, or means of support, of the claimant.

Fifthly: And the said claimant must produce the evidence of two credible witnesses, of the continuance of his disability, from the expiration of the said two years to the time of his application.

* Ante, act of March 23, 1792; chap. 112.

Sixthly: Each claimant must show a good and sufficient cause why he did not apply for a pension, to the person or persons authorized to examine his claim, on or before the eleventh of December, one thousand seven hundred and eighty-eight, the time limited for applications of this nature.

Seventhly: No evidence of any claimant shall be admitted whose claim has been examined and rejected, on or before the aforesaid eleventh of December, one thousand seven hundred and eighty-eight.

SEC. 2. *Be it further enacted*, That the judge of the district shall transmit a list of such claims, accompanied by the evidence herein directed, to the Secretary for the Department of War, in order that the same may be compared with the muster rolls, and other documents in his office; and the said Secretary shall make a statement of the cases of the said claimants to Congress, with such circumstances and remarks as may be necessary, in order to enable them to take such order thereon as they may judge proper.

SEC. 3. *And be it further enacted*, That no person not on the pension list before the twenty-third day of March, one thousand seven hundred and ninety-two,* shall be entitled to a pension, who shall not have complied with the rules and regulations herein prescribed, saving, however, to all persons, all and singular their rights founded upon legal adjudications under the act entitled "An act to provide for the settlement of the claims of widows and orphans, barred by the limitations heretofore established, and to regulate the claims to invalid pensions:"† But it shall be the duty of the Secretary of War, in conjunction with the Attorney General, to take such measures as may be necessary to obtain an adjudication of the supreme court of the United States on the validity of any such rights claimed under the act aforesaid, by the determination of certain persons styling themselves commissioners.

SEC. 4. *And be it further enacted*, That no claim to a pension shall be allowed under this act, which shall not be presented within two years from the passing the same.

[13.]

[*Laws of the U. S., vol. 2, page 375.*]

CHAP. 177. An act for the relief of Simeon Thayer.

Simeon Thayer to be placed on the pension list and allowed the half pay of a major: Provided, &c.

APPROVED, MARCH 2, 1793.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Simeon Thayer, late a major in the army of the United States,

* See act 23d March, 1793; ante, chap. 112. † Ante, chap. 112.

who was disabled at the battle of Monmouth, be placed on the pension list of the United States, and that he be allowed the half pay of a major, from the first day of January, one thousand seven hundred and eighty-one: *Provided*, he return into the treasury office a sum equivalent to the whole of his commutation of half pay.

[14.]

[*Laws of the U. S., vol. 2, page 391.*]

CHAP. 198. An act allowing lieutenant colonel Tousard an equivalent for his pension for life.

Three thousand six hundred dollars allowed to lieutenant colonel Tousard in full of pension of three hundred and sixty dollars for life.

APPROVED, APRIL 30, 1794.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be allowed to lieutenant colonel Tousard three thousand six hundred dollars, in full discharge of his [yearly] pension of three hundred and sixty dollars for life.

[15.]

[*Laws of the U. S., vol. 2, page 434.*]

CHAP. 228. An act in addition to the "Act for making further and more effectual provision for the protection of the frontiers of the United States.*

1. Half pay for five years to the widows or orphans of commissioned officers dying in the service from wounds, &c. 2. Arrears of the army not to exceed two months.

APPROVED, JUNE 7, 1794.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any commissioned officer in the troops of the United States shall, while in the service of the United States, die, by reason of wounds received in actual service of the United States, and shall leave a widow, or if no widow, shall leave a child or children, under age, [of 16 years,] such widow, or if no widow, such child or children, shall be entitled to, and receive, the half of the monthly pay to which the deceased was entitled at the time of his death, for and during the term of five years: And in case of the death or intermarriage of such widow, before the expiration of the said term of five years, the half pay, for the remainder of the term, shall go to the child or children of such deceased officer, while under the age of sixteen years, and, in like manner, the allowance to the child

* See act 16th March, 1802, sec. 14 and sec. 15—post

or children of such deceased, where there is no widow, shall be paid no longer than while there is a child or children under the age aforesaid. *Provided*, that no greater sum shall be allowed, in any case, to the widow, or to the child or children, of any officer, than the full pay of a lieutenant colonel.

SEC. 2. *And be it further enacted*, That the army be in future paid in such manner that the arrears shall at no time exceed two months.

[16.]

[*Laws of the U. S.*, vol. 2, page 438.]

CHAP. 233. An act concerning invalids.

The Secretary of War to place upon the list of invalid pensioners all persons who have been returned by the judges under the act mentioned, &c. who are found to come within the provisions of the act: Persons placed on the list to receive the sums specified by the judges: *Provido*; commissioned officers placed on the pension list for less than a full pension, to comply with the rule referred to.

APPROVED, JUNE 7, 1794.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the War Department be, and he is hereby, directed to place upon the list of invalid pensioners of the United States, all persons who have been returned as such by the judges of the several districts, under the act of Congress of the twenty-eighth of February, one thousand seven hundred and ninety-three, entitled "An act to regulate the claims to invalid pensions,"* and who, by legal proofs, are by him found to come clearly within the provisions of the said act, and are reported as having complete evidence of their claims, in the report of the said Secretary, upon that subject, made to Congress the twenty-fifth day of April, one thousand seven hundred and ninety-four,† and all persons placed, by virtue of this act, on the list of invalid pensioners, shall receive such sums as the returns of the district judges have respectively specified, and be paid in the same manner as invalid pensioners are paid, who have been heretofore placed on the list: *Provided*, That every commissioned officer who shall, by virtue of this act, be placed on the pension list, as entitled to a sum less than a full pension, shall receive such pension only upon compliance with the same rule, respecting a return of the commutation which he may have received, as is provided for in the case of captain David Cook,‡ by an act of Congress, passed December the sixteenth, one thousand seven hundred and ninety-one.

* Ante, chap. 162. † See resolutions of 9th June, 1794—post. ‡ Ante, chap. 103.

[17.]

[*Laws of the U. S., vol. 2, page 449.*]

The Secretary of War to make out a list of persons returned as invalids by the judges, and transmit a copy to each judge: The Secretary of War to return to each district judge a list of invalids under the act mentioned: The district judges to publish the lists.

APPROVED, JUNE 9, 1794.

**Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary for the Department of War be, and he is hereby, directed to make out an exact list of the names of each person returned to him as invalid pensioners, by the judges of the circuit courts of the United States, (signing themselves as commissioners,) under the act of Congress, passed the twenty-third of March, one thousand seven hundred and ninety-two, entitled "An act to provide for the settlement of claims of widows and orphans, barred by the limitations heretofore established, and to regulate the claims to invalid pensions,"† and return to the judge of each district one copy of such list, stating particularly the district from which each person was returned, and that all are by Congress directed not to be entered on the pension list. And the said Secretary is further directed to return to each district judge a list of the names of all such persons as have been returned as invalid pensioners by the district judges, under the act of Congress passed the twenty-eighth of February, one thousand seven hundred and ninety-three, entitled "An act to regulate claims to invalid pensions ;‡ distinguishing those who have been placed on the pension list,§ and those who have not been placed on the same by reason of their testimony being incomplete: stating, particularly, the legal requisite or requisites wanting in the evidence of each; and naming such of them, whose evidence of leaving service is not lodged in his office. And the judges of the several district courts, upon receipt of the above described lists and statements from the Secretary for the Department of War, are hereby directed forthwith to publish the same in one or more of the newspapers published in their respective districts, adding to such publication the time when the act regulating the claims to invalid pensions expires.

[18.]

[*Laws of the U. S., vol. 2, page 470.*]

CHAP. 265. An act supplementary to the act concerning invalids.

1. The right to pension acquired in virtue of the act mentioned, to commence at the time of completing testimony: Nothing antecedent by way of arrears: Pensions to con-

* Obsolete.

† Ante, chap. 112.

‡ Ante, chap. 162.

§ See act of 7th June, 1794; ante, chap. 233.

tinue during disability. 2. No commissioned officer to receive a pension until he has returned commutation, except, &c.

APPROVED, FEBRUARY 21, 1795.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the right any person now has, or may hereafter acquire, to receive a pension, by virtue of the act passed on the twenty-eighth day of February, one thousand seven hundred and ninety-three, entitled "An act to regulate the claims to invalid pensions,"* be considered to commence at the time of completing his testimony before the district judge, or commissioners, pursuant to the said act: And nothing shall be allowed to any invalid of the description aforesaid, by way of arrear of pension, antecedent to the date of his completing his testimony as aforesaid: And the pensions allowed under the said act shall be continued to the respective pensioners during the continuance of their disability.

SEC. 2. *And be it further enacted,* That no commissioned officer, who has received commutation of half pay, shall be paid a pension as an invalid, until he shall return his commutation into the treasury of the United States; except where special provision has been made, in particular cases, for allowing pensions on the return only of certain portions of the commutation.

[19.]

[*Laws of the U. S., vol. 2, page 488.*]

CHAP. 285. An act for continuing and regulating the military establishment of the United States, and for repealing sundry acts heretofore passed on that subject.

Officers, non-commissioned officers, privates, &c., wounded or disabled, to be placed on the list of invalids: Proviso; rate of compensation to a commissioned officer not to exceed half pay, that to privates not to exceed five dollars per month; allowance for inferior disabilities in proportion.

APPROVED, MARCH 3, 1795.

SEC. 13. *And be it further enacted,* That if any officer, non-commissioned officer, private, or musician, aforesaid, shall be wounded or disabled, while in the line of his duty, in public service, he shall be placed on the list of invalids of the United States, at such rate of pay, and under such regulations, as shall be directed by the President of the United States for the time being: *Provided, always,* That the rate of compensation to be allowed for such wounds or disabilities, to a commissioned officer, shall never exceed, for the highest disability, half the monthly pay of such officer, at the time of his being so disabled or wounded; and that the rate of compensation to non-commissioned officers, privates, and musicians, shall never exceed five dollars per month: *And*

* Ante, chap. 162.

provided, also, That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

[20.]

[*Laws of the U. S., vol. 2, page 514.*]

CHAP. 302. An act for the relief of certain officers and soldiers, who have been wounded or disabled in the actual service of the United States.

Officers and privates of the militia or volunteers, wounded or disabled in actual service, to be placed on the list of invalids at such rate as may be directed by the President: *Proviso*; rate of compensation of commissioned officers not to exceed their half pay: The rate, &c., to non-commissioned officers and privates, not to exceed five dollars per month: Inferior disabilities in proportion: *Proviso*; these provisions not to extend to persons wounded, &c., before the 4th March, 1789, nor, &c.: *Proviso*; applications under this act to be made within a year.

APPROVED, MARCH 23, 1796.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That every commissioned [and] non-commissioned officer, private, or musician, who has been wounded or disabled, while in the line of his duty, in actual service, called out by authority of any law of the United States, while he belonged to the militia; or any volunteer not belonging to the militia, who has been wounded or disabled, while in the line of his duty, in actual service as aforesaid, shall be placed on the list of invalids of the United States, at such rate of pay, and under such regulations, as shall be directed by the President of the United States for the time being: *Provided*, The rate of compensation for such wounds and disabilities shall never exceed, for the highest disabilities, half the monthly pay received by any commissioned officer, at the time of being so wounded or disabled; and that the rate of compensation to non-commissioned officers, privates, and musicians, shall never exceed five dollars per month; and that all inferior disabilities shall entitle the person so disabled to receive only a sum in proportion to the highest disability: *And provided*, That these provisions shall not be construed to extend to any person wounded or disabled before the fourth of March, one thousand seven hundred and eighty-nine, nor to any person wounded or disabled since that time, who has made application for a pension, under any existing law of the United States, and has been denied, or admitted, on the pension list: *And provided*, That all applications herein shall be made within one year after the end of the present session of Congress.

[21.]

[*Laws of the U. S., vol. 2, page 572.*]

The Secretary of War to return to the district judges the names of persons transmitted to him, pursuant to the act for regulating claims to invalid pensions, in whose cases the examining physicians neglected to specify the ratio of disability; and the judges to cause examining physicians to specify, &c., and make return to the Secretary of War, who to report to Congress.

APPROVED, APRIL 18, 1796.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary for the Department of War return to the respective district judges, the names of all such persons as have been transmitted to him by the several district judges, pursuant to the act for the regulation of claims to invalid pensions, and in whose cases the examining physicians have neglected to specify the ratio of disability, together with such defective returns of physicians. And the said district judges, respectively, shall forthwith cause the examining physicians to specify the several rates of disability which have been so neglected, or, in case of sickness, death, or removal of one or both such physicians, to make new appointments, and cause the several rates of disability to be specified, and by the said physicians returned to them as soon as may be; of which they shall make return to the Secretary of War, who shall at the session of Congress holden next after or at the time of such receipt, make return thereof, with such observations as he may think proper; and it is the duty of the Secretary of War, to see that the proper order may be taken thereon by Congress.

[22.]

[*Laws of the U. S., vol. 2, page 519.*]

CHAP. 309. An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list.

1. The Secretary of War directed to place upon the list of invalid pensioners the persons named, &c.: Of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Kentucky, North Carolina. 2. A full pension to a commissioned officer to be half, &c. A full pension to a non-commissioned officer or private, five dollars per month: Provided, That the pensioners placed on the pension list, to comply with the rule referred to in the act. 3. The pensioners named to be paid as heretofore.

APPROVED, APRIL 20, 1796.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary for the Department of War be, and he is hereby directed to place upon the list of invalid pensioners of the United States, the persons hereinafter named, who have been returned as such, by the judges of the several districts, pursuant to the act of Congress, passed the twenty-eighth day of February, one thousand seven hundred and ninety-three, entitled "An act to regulate*

the claims to invalid pensions,"* at the rates and proportions annexed to the names of the said persons, respectively ; that is to say :

Of the district of Maine : Daniel Brawn, a private, two-thirds of a pension ; John Knowles, a private, one-third of a pension ; Ebenezer Phinney, a private, one-fourth of a pension.

Of the district of New Hampshire : Jonas Adams, a private, one-third of a pension ; Andrew Aiken, a sergeant major, three-fourths of a pension ; Caleb Aldrich, a sergeant, a full pension ; Caleb Austin, a private, one-third of a pension ; John Barter, a sergeant, half a pension ; Archelaus Batchelder, a sergeant, half a pension ; Ebenezer Bean, private, one-third of a pension ; Job Briton, a private, one-third of a pension ; Ebenezer Carleton, a private, three-fourths of a pension ; Levi Chubbock, a fifer, one-fourth of a pension ; Edward Clark, a sergeant, one-fourth of a pension ; Morrell Coburn, a private, one-fourth of a pension ; Richard Colony, a private, half a pension ; Ebenezer Copp, a sergeant, a full pension ; James Crombie, a lieutenant, a full pension ; William Curtiss, a private, half a pension ; Henry Danforth, a private, half a pension ; James Dean, a private, one-fourth of a pension ; Lemuel Dean, a private, half a pension ; Thomas Eastman, a private, three-fourths of a pension ; Ebenezer Fletcher, a fifer, one-fourth of a pension ; James Ford, a captain, half a pension ; Stephen Fuller, a private, one-third of a pension ; Moses Sweat George, a private, half a pension ; Joshua Gilman, a private, two-thirds of a pension ; Windsor Gleason, a private, one-fourth of a pension ; Joseph Greely, a private, one-fourth of a pension ; Joseph Green, a private, half a pension ; Joshua Haynes, a private, half a pension ; Joseph Hilton, a lieutenant, half a pension ; Nathan Holt, a private, one-fourth of a pension ; Jonathan Holton, a lieutenant, half a pension ; Caleb Hunt, a private, half a pension ; Humphrey Hunt, a private, one-fourth of a pension ; Charles Huntoon, jr. a private, one-third of a pension ; Zadoc Hurd, a private, one-third of a pension ; Ebenezer Jennings, a sergeant, one-fourth of a pension ; Peter Johnson, a private, one-fourth of a pension ; Thomas Kimball, a private, one-fifth of a pension ; Abraham Kimball, a private, half a pension ; Benjamin Knight, a sergeant, one-third of a pension ; John Knight, a private, half a pension ; Jonathan Lake, a corporal, half a pension ; John Lapis, a private, one-fourth of a pension ; Nathaniel Leavitt, a corporal, half a pension ; John Lincoln, a private, one-fourth of a pension ; Joshua Lovejoy, a sergeant, half a pension ; William Lowell, a sergeant, three-fourths of a pension ; Jonathan Margery, a private, two-thirds of a pension ; James Moore, a private, a full pension ; Samuel Morrell, a private, two-fifths of a pension ; Joseph Moss, a private, two-thirds of a pension ; Jotham Nute, a sergeant, half a pension ; Phinehas Parkhurst, a fifer, a full pension ; Amos Pierce, a lieutenant, one-third of a pension ; Silas Pierce, a lieutenant, half a pension ; Joel Porter, a private, one-fourth of a

* *Ante*, chap. 162.

pension; Samuel Potter, a sergeant, half a pension; Thomas Pratt, a private, half a pension; Jeremiah Pritchard, a lieutenant, half a pension; Asa Putney, a sergeant, half a pension; Charles Rice, a private, half a pension; John Smith, a sergeant, half a pension; Samuel Stocker, a private, half a pension; William Taggart, an ensign, half a pension; Eliphalet Taylor, a private, one-third of a pension; Ebenezer Tinkham, a private, one-third of a pension; John Varnum, a private, half a pension; Edward Waldo, a lieutenant, two-thirds of a pension; Weymouth Wallace, a private, half a pension; Josiah Walton, a private, one-third of a pension; Jacob Wellman, junior, a private, one-fourth of a pension; Francis Whitcomb, a private, one-third of a pension; Robert B. Wilkins, a private, two-thirds of a pension; Jonathan Willard, an ensign, one-fourth of a pension; Seth Wyman, a private, one-fourth of a pension.

Of the district of Massachusetts: Thomas Alexander, a captain, half a pension; Ephraim Bailey, a private, half a pension; Robert Bancroft, a private, one-sixth of a pension; James Batchelder, a private, one-fourth of a pension; James Campbell, a private, one-fourth of a pension; Caleb Chadwick, a private, one-fourth of a pension; Barnabas Chapman, a private, one-third of a pension; Richard Chase, a private, half a pension; Joseph Coxe, a sergeant, two-thirds of a pension; Thomas Crowell, a private, a full pension; Levi Farnsworth, a private, half a pension; Benjamin Farnum, a captain, one-third of a pension; Moses Fitch, a private, one-fifth of a pension; Frederick Follet, a private, half a pension; Joseph Frost, a private, one-eighth of a pension; Uriah Goodwin, a private, one-fourth of a pension; Joseph Hale, a private, half a pension; Gamaliel Handy, a private, two-thirds of a pension; Peter Hemenway, a private, half a pension; Jesse Holt, a corporal, one-eighth of a pension; Job Lane, a private, half a pension; Ebenezer Learned, a colonel, one-fourth of a pension; Moses M'Farland, a captain, one-third of a pension; Hugh Maxwell, a captain, one-eighth of a pension; John Maynard, a lieutenant, one-tenth of a pension; Tilley Mead, a private, one-fourth of a pension; Elisha Munsell, a private, half a pension; John Nixon, a colonel, one third of a pension; Timothy Northam, a private, one-third of a pension; Joseph Peabody, a private, one-third of a pension; Amos Pearson, a sergeant, one-fifth of a pension; Abner Pier, a private, half a pension; Job Priest, an ensign, one-third of a pension; Amasa Scott, a private, one-fourth of a pension; Robert Smith, a private, two-thirds of a pension; Sylvanus Snow, a private, one-third of a pension; Cesar Sprague, a private, half a pension; Samuel Warner, a private, half a pension; William Warren, a lieutenant, one-third of a pension; Samuel Willington, a private, half a pension; Nahum Wright, a sergeant, one-eighth of a pension.

Of the district of Rhode Island: Clark Albro, a private, one-fourth of a pension; John Baggs, junior, a sergeant, one-third of a pension; Robert Cars, a private, half a pension; Jonathan Da-

venport, a private, one-twenty-fourth of a pension ; Nathan Jacques, a private, one-third of a pension ; William Lunt, a private, half a pension ; George Popple, a sergeant, one-eighth of a pension ; Job Snell, a private, one-fourth of a pension ; Edward Vose, a sergeant, one-sixth of a pension.

Of the district of Connecticut : Theodore Andrus, a private, a full pension ; Samuel Andrus, a corporal, half a pension ; William Bailey, a private, one-fourth of a pension ; Robert Baily, a private, one-fourth of a pension ; Job Bartram, a captain, half a pension ; Francis Baxter, a private, three-fourths of a pension ; Enos Blakesly, a private, a full pension ; David Blackman, a private, two-thirds of a pension ; Elijah Boardman, a sergeant, three-fourths of a pension ; Jonathan Bowers, a corporal, half a pension ; Aner Bradley, a sergeant, half a pension ; Jedediah Brown, a sergeant, one-fourth of a pension ; Isaac Buel, a private, one-third of a pension : Oliver Burnham, a sergeant, one-fourth of a pension ; William Burrit, a private, one-fourth of a pension ; John Chappell, a private, one-third of a pension ; Elisha Clark, a private, one-fourth of a pension ; Jonah Cook, a private, half a pension ; Henry Cone, a private, one-fourth of a pension ; Simon Crosby, a private, half a pension ; Prince Dennison, a private, half a pension ; Israel Dibble, a private, one-third of a pension ; Gershum Dorman, a private, one-third of a pension ; Joseph Dunbar, a corporal, three-fourths of a pension ; Henry Fillmore, a private, half a pension ; Samuel French, a private, half a pension ; Burr Gilbert, a corporal, two-thirds of a pension ; David Hall, junior, a sergeant, half a pension ; Nathan Hawley, a corporal, one-third of a pension ; Daniel Hewitt, a sergeant, one-third of a pension ; Isaac Higgins, a private, half a pension ; Thurston Hilliard, a private, one-third of a pension ; Thomas Hobby, a major, half a pension ; John Horseford, a private, one-eighth of a pension ; Benjamin Howd, a private, three-fourths of a pension ; Elijah Hoyt, a private, half a pension ; David Hubbel, a private, half a pension ; Enoch Jacobs, a private, three-fourths of a pension ; Robert Jeroine, a fifer, one-fourth of a pension ; Aaron Kelsey, a lieutenant, one-fourth of a pension ; Lee Lay, a captain, one-sixth of a pension ; John Ledyard, a private, three-fourths of a pension ; William Leeds, a lieutenant, half a pension ; Naboth Lewis, a private, two-thirds of a pension ; Nathaniel Lewis, a private, one-fourth of a pension ; George Lord, a private, half a pension ; Samuel Loomis, a corporal, one-fourth of a pension ; Jeremiah Markham, a sergeant, half a pension ; Allyn Marsh, a corporal, half a pension ; Josiah Merryman, a corporal, two-thirds of a pension ; Stephen Miner, a quarter gunner, half a pension ; Justus Munn, a private, half a pension ; Elnathan Norton, a private, three-fourths of a pension ; Joseph Otis, a private, half a pension ; Thomas Parmelee, a sergeant, one-eighth of a pension ; Chandler Pardie, a private, seven-eighths of a pension ; Frederick Platt, a private, one-third of a pension ; Daniel Preston, a private, one-third of a pension ; David Ranney, a private, three-fourths of a pension ; Solomon Rey-

nolds, a private, two-thirds of a pension ; Isaac Richards, a private, one-third of a pension ; Samuel Rosetter, a private, half a pension ; Elijah Royce, a private, three-fourths of a pension ; Elihu Sabin, a private, half a pension ; Samuel Sawyer, a private, half a pension ; Nathaniel Scribner, a captain, one-fourth of a pension ; Thomas Shepherd, a private, one-fourth of a pension ; Amos Skeel, a private, one-third of a pension ; Heber Smith, a sergeant, half a pension ; Aaron Smith, a private, one-fourth of a pension ; Edmond Smith, a private, half a pension ; Josiah Spalding, a lieutenant, half a pension ; Samuel Stillman, a private, half a pension ; Benjamin Sturges, a private, one-sixth of a pension ; Enoch Turner, junior, a private, two-thirds of a pension ; Richard Watrous, a private, three-fourths of a pension ; Stephen Wells, a lieutenant, half a pension ; Jonathan Whaley, a private, one-fourth of a pension ; Ezra Willcox, a private, one-fourth of a pension ; Azel Woodworth, a private, three-fourths of a pension.

Of the district of Vermont : Elijah Barnes, a private, one-fourth of a pension ; Elijah Bennett, a private, half a pension ; Gideon Brownson, a major, a full pension ; Thomas Brush, a private, one-fourth of a pension ; David Brydia, a private, half a pension ; Nathan Burr, a private, half a pension ; James Campbell, a private, half a pension ; Oliver Darling, a private, five-eighths of a pension ; Samuel Eyres, a private, one-fourth of a pension ; Asa Gould, a private, half a pension ; Benjamin Gould, a private, half a pension ; Amasa Grover, a private, one-third of a pension ; William Hazeltine, a private, half a pension ; Jonathan Haynes, a private, two-thirds of a pension ; Zimri Hill, a private, half a pension ; William Hunt, a private, half a pension ; Elijah Knight, a private, one-fourth of a pension ; Ebenezer M'Ilvain, a private, half a pension ; William Martin, a private, two-thirds of a pension ; Pliny Pomeroy, a private, four-fifths of a pension ; Moses Saunderson, a private, two-thirds of a pension ; John Stark, a captain, one-fourth of a pension ; Thomas Torrance, a private, half a pension ; Benjamin Tower, a private, two-thirds of a pension ; William Waterman, a private, one-third of a pension ; John Wilson, a sergeant, one-third of a pension.

Of the district of New York : Thomas Baldwin, a sergeant, half a pension ; Abraham Blauvelt, a private, a full pension ; Thomas Brooks, a private, three-fourths of a pension ; Duncan Campbell, a lieutenant, half a pension ; William Champenois, a private, three-fourths of a pension ; Russel Chappell, a private, half a pension ; Jeremiah Everett, a private, half a pension ; Samuel Miller, a private, a full pension ; Jared Palmer, a sergeant, half a pension ; Stephen Powell, a private, one-sixteenth of a pension ; John Rogers, a private, half a pension ; William Smith Scudder, a private, half a pension ; James Slater, a private, half a pension ; John Utters, a private, three-fourths of a pension ; John Vaughan, a sergeant, one-fourth of a pension ; Asa Virgil, a private, one-fourth of a pension.

Of the district of New Jersey: William Crane, a lieutenant, a full pension; William Oliver, a lieutenant, two-thirds of a pension; Joel Phelps, a private, half a pension; Samuel Taylor, a corporal, two-thirds of a pension.

Of the district of Pennsylvania: John Cardiffe, a private, a full pension; Josiah Concklin, a private, half a pension; William Dewitt, a private, half a pension; Thomas Eagan, a matross, half a pension; Jacob Fox, a private, one third of a pension; Alexander Garret, a private, three-fourths of a pension; Samuel Gilman, (alias Gilmore,) a private, half a pension; Adam Goddenberger, a private, one-fourth of a pension; John Haley, a corporal, three-fourths of a pension; David Hickey, a private, a full pension; Lawrence Hipple, a private, half a pension; Nathaniel Hubble, a major, two-thirds of a pension; Philip Lauer, a sergeant, one-fourth of a pension; Charles M'Cormick, a private, a full pension; William M'Hatton, a lieutenant, a full pension; Michael Orner, a private, one-fourth of a pension; Griffith Rees, a private, half a pension; Thomas Richart, a private, a full pension; Edward Wade, a private, half a pension; Thadeus Williams, a private, one-fourth of a pension; John Wright, a sergeant, half a pension.

Of the district of Delaware: Donald M'Donald, a corporal, a full pension.

Of the district of Maryland: John Bean, a private, half a pension; William Ormond, a private, three-fourths of a pension.

Of the district of Virginia: John Bell, a lieutenant, three-fourths of a pension; David Welch, a private, a full pension.

Of the district of Kentucky: James Speed, a lieutenant, a full pension.

Of the district of North Carolina: John Benton, a private, a full pension; George Bledsoe, a private, a full pension; Thomas Chiles, a captain, two-thirds of a pension; James Christian, a private, half a pension; Robert Harris, a private, a full pension; John Knowles, a private, two-thirds of a pension; James Smith, a private, a full pension.

SEC. 2. *And be it further enacted*, That the pensions allowed by this act shall be estimated in the manner following; that is to say: A full pension to a commissioned officer shall be considered the one-half of his monthly pay, as by law established: And the proportions less than a full pension shall be the like proportions of half pay: And a full pension to a non-commissioned officer or private soldier, shall be five dollars per month; and the proportions less than a full pension, shall be the like proportions of five dollars per month: *Provided*, That every commissioned officer who shall, by virtue of this act, be placed on the pension list as entitled to a sum less than a full pension, shall receive such pension only upon compliance with the same rule, respecting a return of the commutation, which he may have received, as is provided for in the case of captain David Cook,* by an act of Con-

* See note, chap. 103.

gress, passed December the sixteenth, one thousand seven hundred and ninety-one.

SEC. 3. *And be it further enacted*, That the pensioners aforesaid shall be paid in the same manner as invalid pensioners are paid, who have heretofore been placed on the list of pensioners of the United States, under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

[23.]

[*Laws of the U. S., vol. 2. page 556.*]

CHAP. 333. An act to ascertain and fix the military establishment of the United States.

Officers and privates wounded in the line of duty, to be placed on the list of invalids: The rate of compensation to a commissioned officer not to exceed half pay; to non-commissioned officers and privates, not to exceed five dollars per month: Proportionate allowance for inferior disabilities.

APPROVED, MAY 30, 1796.

SEC. 19. *And be it further enacted*, That if any officer, non-commissioned officer, private, or musician, aforesaid, shall be wounded or disabled, while in the line of his duty, in public service, he shall be placed on the list of the invalids of the United States, at such rate of pay, and under such regulations, as shall be directed by the President of the United States for the time being: *Provided always*, That the rate of compensation to be allowed for such wounds or disabilities, to a commissioned officer, shall never exceed, for the highest disability, half the monthly pay of such officer, at the time of his being so disabled or wounded; and that the rate of compensation to non-commissioned officers, privates, and musicians, shall never exceed five dollars per month: *And provided also*, That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

[24.]

[*Laws of the U. S., vol. 2, page 574.*]

CHAP. 352. An act granting a certain sum of money to the widow and children of John de Neuville, deceased.

The President authorized to pay out of the treasury, three thousand dollars to the widow and children of John de Neuville, in consideration of particular services rendered by him during the war of the revolution.

APPROVED, MARCH 2, 1797.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in consideration of particular services rendered the United States,

laring the war of their revolution, by the late John de Neufville, of the United Netherlands, the President of the United States be, and he is hereby, authorized to cause to be paid, out of any moneys which may be in the treasury, not otherwise appropriated, the sum of one thousand dollars, to Anna de Neufville, widow of the said John de Neufville; a like sum for the use of Leonard de Neufville, his son; and a like sum for the use of Anna de Neufville, his infant daughter.

[25.]

[*Laws of the U. S., vol. 2, page 588.*]

HAP. 365. An act making appropriations for the military and naval establishments, for the year one thousand seven hundred and ninety-seven.

APPROVED, MARCH 3, 1797.

14. For the payment of military pensions, including an allowance to the widows and children of officers, under an act, entitled An act in addition to the act for making further and more effectual provision for the protection of the frontiers of the United States," the sum of ninety-six thousand three hundred and fifty dollars.

[26.]

[*Laws of the U. S., vol. 3, page 26.*]

HAP. 29.* An act directing the Secretary of War to place certain persons on the pension list.

1. The Secretary of War to place the persons mentioned on the Pension list: Of New Hampshire, Connecticut, Vermont, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia. 2. Pensions to be estimated, &c., according to the act of 20th April, 1796.

APPROVED, FEBRUARY 2, 1796.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary for the Department of War be, and he is hereby, directed to place on the pension list of the United States the seve-*

* It will be perceived that the number of the second chapter on this page is 29, whilst the number of the chapter immediately preceding it is 365. Chapter 365 is among the 11 in vol. 2 of the edition of the laws used in this compilation; and chapter 29 is among the first in vol. 3—the numbering of the chapters having reference only to the number of acts contained in the respective volumes of the laws. The Editors concluded not to interfere with the original numbering of the chapters, though of no benefit for reference, but to adopt a uniform series of numbers in brackets [], at the head of each chapter and extract, for more convenient reference to these laws and extracts thus taken out of their former sequence. Further explanations will be found in the introduction.

ral persons hereinafter named, who have been returned as pension claimants by the judges of the several districts, pursuant to the act of Congress passed the twenty-eighth day of February, one thousand seven hundred and ninety-three, entitled "An act to regulate the claims to invalid pensions," at the rates and proportions annexed to the names of the said persons respectively, that is to say:

Of the district of New Hampshire: Joseph Goodrich, a private, half a pension; Joseph Patterson, a private, half a pension; Cæsar Barnes, a private, one-third of a pension.

Of the district of Connecticut: John Downs, a sergeant, a full pension; Obadiah Perkins, a lieutenant, one-fourth of a pension.

Of the district of Vermont: Joseph Tyler, a private, half a pension; Peter Rider, a corporal, half a pension; Isaac Webster, a sergeant, half a pension; Ephraim Wilmarth, a sergeant, two-thirds of a pension.

Of the district of New York: Stephen Kellogg, a private, a full pension; Garret Oblenis, a private, half a pension; William Scott, a major, a full pension; Finley Stewart, a batteau-man, three-fourths of a pension; Godfrey Sweet, a private, a full pension; Thomas Ward, a corporal, a full pension.

Of the district of New Jersey: Minne L. Vorheis, a private, half a pension; Samuel Hull, a sergeant, two-thirds of a pension.

Of the district of Pennsylvania: Robert Wilson, an ensign, one-fourth of a pension.

Of the district of Delaware: Nelce Jones, a corporal, half a pension.

Of the district of Maryland: Philip Casson, a lieutenant, a full pension.

Of the district of Virginia: Joshua Davidson, a dragoon, three-fourths of a pension; Jonathan Dyer, a private, a full pension.

Of the district of North Carolina: Daniel M'Kissick, a captain, half a pension; Ithamar Singletary, a private, one-fourth of a pension; William Simpson, a private, half a pension; Joseph Wasson, a private, a full pension.

Of the district of Georgia: Herman Bird, a private, one-half of a pension; Thomas Greer, a private, one-half of a pension; John Guthrie, a private, one-half of a pension; Alexander Irvine, a lieutenant, one-half of a pension; Henry Kerr, a captain, one-half of a pension; John Lindsay, a major, a full pension; Hugh Lawson, a captain, one-half of a pension; James Lewis, a lieutenant, one-half of a pension; John Ramsay, a private, one-half of a pension; John Trent, a captain, one-half of a pension; Presley Thornton, a corporal, one-half of a pension.

SEC. 2. *And be it further enacted,* That the pensions allowed by this act shall be estimated at the same rates, receivable on the same conditions, and payable in the same manner, in all respects, as directed in like cases by the act of the twentieth day of April, one thousand seven hundred and ninety-six, entitled "An act authorizing and directing the Secretary of War to place certain persons therein named on the pension list."

[27.]

[*Laws of the U. S., vol. 3, page 27.*]

CHAP. 32. An act to provide for the widows and orphans of certain deceased officers.

The provisions of the act of 7th June, 1794, extended to the widows, &c., of officers, who have died by reason of wounds received since 4th March, 1789 ; provided application be made within two years.

APPROVED, MARCH 14, 1798.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions for widows and orphans of commissioned officers of troops of the United States, contained in the first section of the law passed on the seventh day of June, one thousand seven hundred and ninety-four, entitled "An act in addition to the act making further and more effectual provision for the protection of the frontiers of the United States,"* be, and the same are hereby, extended to the widows and orphan children of the commissioned officers of the troops of the United States, and of the militia, who have died by reason of wounds received since the fourth day of March, one thousand seven hundred and eighty-nine, in the actual service of the United States : *Provided*, application shall be made within two years after the end of the present session of Congress.

[28.]

[*Laws of the U. S., vol. 3, page 50.*]

CHAP. 64. An act authorizing the President of the United States to raise provisional army.†

The President may organize the troops, and appoint officers, in the recess of the Senate : Appointment of field officers to be submitted to the Senate : The troops to be on the footing of th. other troops of the United States, bounty excepted.

APPROVED, MAY 28, 1798.

SEC. 2. *And be it further enacted*, That the President be, and he is hereby, authorized to organize, with a suitable number of major generals, and conformably to the military establishment of the United States, the said troops into corps of artillery, cavalry, and infantry, as the exigencies of the service may require, in the recess of the Senate, alone, to appoint the commissioned officers. The appointment of the field officers to be submitted to the advice and consent of the Senate at their next subsequent meeting. The commissioned and non-commissioned officers, musicians, and privates, raised in pursuance of this act, shall be subject to the rules and articles of war, and regulations for the government of the army, and be entitled to the same pay, clothing, rations, forage, and all other emoluments, bounty excepted, and in case of wounds

* See act of that date, No. [15.]—ante.

† Repealed by act of 16th March, 1802 ;—post.

or disability, received in service, to the same compensation, as the troops of the United States are by law entitled.

[29.]

[*Laws of the U. S., vol. 3, page 261.*]

CHAP. 137. An act giving eventual authority to the President of the United States to augment the army.

The officers, non-commissioned officers, privates, &c., entitled to the same pay, clothing, rations, &c., as other troops; subject to the rules and articles of war: None but recruiting officers entitled to pay until called into service.

APPROVED, MARCH 2, 1799.

SEC. 3. *And be it further enacted*, That the officers, non-commissioned officers, and privates, of the troops which may be organized and raised pursuant to this act, shall be entitled to the like pay, clothing, rations, forage, and other emoluments, and to the like compensation in case of disability by wounds, or otherwise, incurred in the service, as the officers, non-commissioned officers, and privates, of other troops of correspondent denominations, composing the army of the United States; and, with them, shall be subject to the rules and articles of war, and to all other regulations for the discipline and government of the army. *Provided*, That no officer, except captains and subalterns who may be employed in the recruiting service, shall be entitled to any pay or other emolument until he shall be called into actual service.

[30.]

[*Laws of the U. S., vol. 3, page 450.*]

CHAP. 269. An act fixing the military peace establishment of the United States.

14. Officers and privates disabled by wounds to be placed on the list of invalids at a rate of pay to be directed by the President: Compensation for wounds to commissioned officers not to exceed half pay; to non-commissioned officers and privates not to exceed five dollars per month: Allowance in proportion for inferior disabilities. 15. Half pay for five years to the widows or children of commissioned officers dying from wounds received in actual service: In case of the death or intermarriage of the widow the half pay to go to the children: The half pay to cease on the death of the children.

APPROVED, MARCH 16, 1802.

SEC. 14. *And be it further enacted*, That if any officer, non-commissioned officer, musician, or private, in the corps composing the peace establishment, shall be disabled by wounds or otherwise, while in the line of his duty, in public service, he shall be placed on the list of invalids of the United States, at such rate of pay, and under such regulations, as may be directed by the President of the United States, for the time being: *Provided always*, That the compensation to be allowed for such wounds or disabili-

ties, to a commissioned officer, shall not exceed, for the highest rate of disability, half the monthly pay of such officer at the time of his being disabled or wounded; and that no officer shall receive more than the half pay of a lieutenant colonel; and that the rate of compensation to non-commissioned officers, musicians, and privates, shall not exceed five dollars per month: *And provided, also*, That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

Sec. 15. *And be it further enacted*, That if any commissioned officer in the military peace establishment of the United States, shall, while in the service of the United States, die, by reason of any wound received in actual service of the United States, and leave a widow, or, if no widow, a child or children under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to and receive half the monthly pay to which the deceased was entitled at the time of his death, for and during the term of five years. But in the case of the death or intermarriage of such widow, before the expiration of the said term of five years, the half pay, for the remainder of the time, shall go to the child or children of such deceased officer: *Provided always*, That such half pay shall cease on the decease of such child or children.

[31.]

[*Laws of the U. S., vol. 3, page 558.*]

CHAP. 350. An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States, during the Revolutionary war.*

1. Officers and privates of the army and navy disabled by wounds received in actual service during the revolutionary war, entitled to be placed on the pension list, provided, &c. First. Evidence of disability to be taken before the district judge. Secondly. The evidence must prove decisive disability to have been the effect of known wounds, and must be the affidavits of the commander or surgeon, or two other credible witnesses. Thirdly. Every claimant to be examined on oath, by some respectable physician. Fourthly. Every claimant must produce evidence of his continuance in the service. Fifthly. Every claimant must show cause why he did not apply for a pension heretofore. 2. The district judge to give each claimant a transcript of the evidence, transmit a list to the Secretary of War, and if correct the party to be placed on the pension list: A pension in no case to commence before the 1st January, 1803, except, &c. 3. A full pension to be considered half the monthly pay of a commissioned officer: A full pension to a non-commissioned officer or private to be five dollars per month: No pension of a commissioned officer to be higher than the half pay of a lieutenant colonel. 4. Pensioners in virtue of this act to be paid in the same manner as other invalid pensioners.

APPROVED, MARCH 3, 1803.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any commissioned officer, non-commissioned soldier, or seaman, dis-

* Repealed; see act of 10th April, 1806, sec. 9—post: supplied by the same act.

abled, in the actual service of the United States, by wounds received during the Revolutionary war, and who did not desert the said service, shall be entitled to be placed on the pension list of the United States during life: *Provided*, That in substantiating the claims thereto, the rules and regulations following shall be complied with:

First. All evidence shall be taken on oath or affirmation, before the judge of the district in which such invalid reside, or before some person specially authorized by commission from the said judge.

Secondly. The evidence relative to any claimant, must prove decisive disability to have been the effect of known wounds received while in the actual line of his duty, in the service of the United States, during the Revolutionary war: that this evidence must be the affidavits of the commanding officer, or surgeon of the ship, regiment, corps, or company, in which such claimant served, or two other credible witnesses to the same effect, setting forth the time and place of such known wound.

Thirdly. Every claimant shall be examined on oath or affirmation, by some respectable physician or surgeon, to be authorized by commission from the said judge, who shall report in writing his opinion, upon oath, or affirmation, of the nature of said disability, and in what degree it prevents the claimant from obtaining his livelihood.

Fourthly. Every claimant must produce evidence of his having continued in the service of the United States to the conclusion of the war in seventeen hundred and eighty-three, or being left out of the service in consequence of his disability, or in consequence of some derangement of the army, and of the mode of life or employment he has since followed, and of the original existence and continuance of his disability.

Fifthly. Every claimant must show satisfactory cause to the said judge of the district, why he did not apply for a pension in conformity to laws heretofore passed, before the expiration of the limitation thereof.

SEC. 2. *And be it further enacted*, That the said judge of the district, or person by him commissioned, as aforesaid, shall give to each claimant a transcript of the evidence and proceedings had, respecting his claim: and shall also transmit a list of such claims, accompanied by the evidence herein directed, to the Secretary of the Department of War, in order that the same may be examined, and if correct, agreeably to the intent and meaning of this act, the said applicants are thenceforth to be placed on the pension list of the United States: *Provided*, That in no case a pension shall commence before the first day of January, eighteen hundred and three, except so far as to offset the commutation of half pay received by such officer: in which case the proper officer is to calculate the pension from the first day of January, seventeen hundred and eighty-four.

SEC. 3. *And be it further enacted*, That the pensions allowed by this act, shall be estimated in the manner following, that is to

say: a full pension to a commissioned officer shall be considered the one-half of his monthly pay, as by law established, and the proportions less than a full pension shall be the like proportions of half pay. And a full pension to a non-commissioned officer, private soldier, or seaman, shall be five dollars per month, and the proportions less than a full pension shall be the like proportions of five dollars per month; but no pension of a commissioned officer shall be calculated at a higher rate than the half pay of a lieutenant colonel.

SEC. 4. *And be it further enacted*, That the pensioners, becoming such in virtue of this act, shall be paid in the same manner as invalid pensioners are paid who have heretofore been placed on the pension list of the United States, under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

[32.]

[*Laws of the U. S., vol. 3, page 575.*]

CHAP. 371. An act for the relief of certain military pensioners in the State of South Carolina.

1. Persons to whom military pensions have been heretofore paid by South Carolina, and who have not been placed on the books in the office of the Secretary of War, to be placed thereon, and paid by the United States. 2. In placing the names of pensioners on the books, the Secretary of War to be guided by a certificate from the State of South Carolina: Officers and soldiers placed on the pension list, to receive a sum equal to the arrears of pension for the time mentioned: Arrearages to be ascertained and certified by the Register of the Treasury: Commutation of half pay to be returned or deducted.

APPROVED, MARCH 3, 1804.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the persons to whom military pensions have been heretofore granted and paid by the State of South Carolina, in pursuance of the resolves of the United States in Congress assembled, for the payment of pensions to the invalids who were wounded and disabled during the late war with Great Britain, and who have not been placed on the books in the office of the Secretary for the Department of War, shall be, and the same hereby are, directed to be placed on said books, and their said pensions shall be hereafter paid by the United States, in the same manner as to other pensioners of the United States, out of the funds already appropriated for that purpose.

SEC. 2. *And be it further enacted*, That in placing the names of pensioners on the books, pursuant to the directions contained in the foregoing section, the Secretary of War shall be guided by a certificate from the State of South Carolina, when the same shall be delivered to him, under the proper authentications, which certificate shall specify the names of pensioners and sums of pension; and likewise, that they have not been paid since March the

fourth, one thousand seven hundred and eighty-nine, by said State; which certificate shall be recorded in the books of the Department of War, and the original kept on file. And each officer, non-commissioned officer, and soldier, whose name shall be placed on the said list as a pensioner, in conformity to the provisions of this act, or in case of the death of any such officer, non-commissioned officer, or soldier, his heirs or legal representatives, shall receive a sum equal to the arrears of his pension, which shall have accrued from and after the fourth day of March, one thousand seven hundred and eighty-nine, until the passage of this act, or until the death of such pensioner as aforesaid, as the case may be; which arrearages shall be ascertained and certified by the Register of the Treasury, in the same manner, and under the same restrictions, as are contained in the act passed the eleventh day of August, one thousand seven hundred and ninety, entitled "An act for the relief of the persons therein mentioned or described:" *Provided*, That the commutation of half pay, which may have been received by any commissioned officer entitled to a pension, as aforesaid, shall first be returned by such officer into the treasury of the United States, or shall be deducted from the arrears of pension directed to be paid by this act.

[33.]

[*Laws of the U. S., vol. 3, page 673.*]

CHAP. 458. An act in addition to "An act to make provision for persons that have been disabled by known wounds, received in the actual service of the United States during the revolutionary war."*

The provisions contained in the first section of the act mentioned, extended to all persons who in consequence of disability from known wounds received in actual service during the revolutionary war, resigned their commissions, or, &c.: Every person applying for a pension to conform in every other respect, &c.

APPROVED, MARCH 3, 1805.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions contained in the first section of "An act to make provision for persons that have been disabled by known wounds, received in the actual service of the United States, during the revolutionary war," passed the third day of March, one thousand eight hundred and three, are hereby extended to all those persons in the service of the United States, who, in consequence of their disability by known wounds, received in the actual service, during the revolutionary war, resigned their commissions, or took discharges; or who, after incurring their disability, were taken captive by the enemy, and remained either in captivity or on parole, until the close of the war; or who, in consequence of known

* See act of 3d March, 1803, No. [31.]—ante.

is, received in the actual service of the United States, have
 7 period since become and continue disabled, in such man-
 to render them unable to procure a subsistence by manual
Provided, That every person of the several descriptions
 mentioned, applying for a pension, shall, in all other res-
 conform to the requirements of the act to which this is an
 m.

[34.]

[*Laws of the U. S., vol. 3, page 673.*]

CHAP. 459. An act for the relief of Richard Taylor.

rd Taylor, who was employed as an escort, spy, &c., during hostilities with the
 in 1792, and was disabled, to be placed on the list of invalid pensioners at the
 twenty dollars per month.

APPROVED, MARCH 3, 1805.

1. *Be it enacted by the Senate and House of Representatives
 United States of America in Congress assembled*, That Rich-
 aylor, of Kentucky, who was employed in the service of the
 l States, as an escort, spy, and guide, at the daily pay of
 ollar and twenty-five cents, during hostilities with certain
 s, in the year one thousand seven hundred and ninety-two,
 as disabled by being wounded while in such service, shall
 ced on the list of invalid pensioners of the United States at
 te of twenty dollars per month, to commence on the first
 January, in the present year, in lieu of his present rate of
 n.

[35.]

[*Laws of the U. S., vol. 4, page 31.*]

25. An act to provide for persons who were disabled by known wounds received
 in the revolutionary war.

icers, soldiers, musicians, marines, or seamen, disabled in the actual service of
 ed States, while in the line of duty, upon substantiating their claims, to be
 a the pension list. 2. Rules and regulations in substantiating claims: All evi-
 be taken on oath before the judge of the district: Decisive disability must be
 y the affidavit of the commanding officer, or of two other credible witnesses:
 are of the disability must be proved by the affidavit of a reputable physician or
 : The physician or surgeon to describe the wound in the affidavit: Every claim-
 : prove that he continued in service during the whole time for which he was de-
 and his mode of life and employment since he left the service: Every claimant
 atisfactory reasons why he did not make application for a pension before: The
 certify the credibility of witnesses whose affidavits he takes. 3. The district
 transmit a list of the claims, with the evidence, to the Secretary of War: The
 y of War to make a statement and transmit it to Congress, with remarks: The
 : permit each claimant to take a transcript of the evidence and proceedings re-
 his claim. 4. Every pension, in virtue of this act, to commence on the day the
 : completed his testimony. 5. Increase of pension may be allowed to persons

already on the list, for disabilities received during the revolutionary war: Invalids making application for an increase of pension to be examined by physicians, who are to report in writing on oath: The report to be transmitted to Congress. 6. A full pension to a commissioned officer to be one-half the monthly pay; the proportion less to correspond: A full pension to a non-commissioned officer, soldier, &c., to be five dollars a month: No pension of a commissioned officer to be higher than half pay of a lieutenant colonel. 7. Pensions allowed by this act to be paid as pensions to invalids heretofore placed on the list. 8. Sale, transfer, or mortgage, of pensions payable to non-commissioned officers, soldiers, &c., before being due, not valid: Persons claiming pensions under powers of attorney, to make oath that the powers have not been given by reason of any transfer: Persons swearing falsely to suffer as for wilful and corrupt perjury. 9. All laws heretofore passed authorizing persons to be placed on the pension list in consequence of wounds received in the revolutionary war, repealed; provided, &c. 10. This act limited to six years: The limitation not to impair the right of any invalid who may have completed his testimony.

APPROVED, APRIL 10, 1806.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* any commissioned or non-commissioned officer, musician, soldier, marine, or seaman, disabled in the actual service of the United States, while in the line of his duty, by known wounds received during the revolutionary war, and who did not desert the service; or who, in consequence of disability as aforesaid, resigned his commission or took a discharge; or who, after incurring disability as aforesaid, was taken captive by the enemy, and remained either in captivity or on parole, until the close of said revolutionary war; or who, in consequence of known wounds received as aforesaid, has, at any period since, become and continued disabled in such manner as to render him unable to procure a subsistence by manual labor; whether such officer, musician, soldier, marine, or seaman, served as a volunteer, in any proper service against the common enemy, or belonged to a detachment of the militia, which served against the common enemy, or to the regular forces of the United States, or of any particular State, he shall, upon substantiating his claim, in the manner hereinafter described, be placed on the pension list of the United States, during life, or the continuance of such disability, and be entitled, under the regulations hereinafter mentioned, to receive such sum as shall be found just and proper, by the testimony adduced.

SEC. 2. *And be it further enacted, That*, in substantiating such claim, the following rules and regulations shall be complied with, that is to say: All evidence shall be taken on oath or affirmation, before the judge of the district, or one of the judges of the territory in which such claimant resides, or before some person specially authorized by commission from said judge.

Decisive disability, the effect of a known wound or wounds, received while in the actual service and line of duty against the common enemy, during the revolutionary war, must be proved by the affidavit of the commanding officer of the regiment, corps, company, ship, vessel, or craft, in which such claimant served; or of two other credible witnesses to the same effect, setting forth the time when, and place where, such wound or wounds were received, and particularly describing the same.

The nature of such disability, and in what degree it prevents the claimant from obtaining his subsistence, must be proved by the affidavit of some reputable physician or surgeon, stating his opinion, either from his own knowledge and acquaintance with the claimant, or from an examination of such claimant on oath or affirmation; which, when necessary for that purpose, shall be administered to said claimant by said judge or commissioner. And the said physician or surgeon, in his affidavit, shall particularly describe the wound or wounds from whence the disability appears to be derived.

Every claimant must prove, by at least one credible witness, that he continued in service during the whole time for which he was detached, or for which he engaged, unless he was discharged, or left the service in consequence of some derangement of the army, or, in consequence of his disability, resigned his commission; or was, after his disability, in captivity or on parole, until the close of the revolutionary war. And in the same manner must prove his mode of life and employment since he left the service, and the place or places where he has since resided, and his place of residence at the time of taking such testimony.

Every claimant shall, by his affidavit, give satisfactory reasons why he did not make application for a pension before, and that he is not on the pension list of any State; and the judge or commissioner shall certify, in writing, his opinion of the credibility of the witnesses whose affidavits he shall take, in all those cases where, by this act, it is said the proof shall be made by a credible witness or witnesses; and, also, that the examining physician or surgeon is reputable in his profession.

SEC. 3. *And be it further enacted*, That the said judge of the district, or person by him commissioned as aforesaid, shall transmit a list of such claims, accompanied by the evidence, affidavits, certificates, and proceedings had thereon in pursuance of this act, noting particularly the day on which the testimony was closed before him, to the Secretary for the Department of War, that the same may be compared with muster rolls, or other documents in his office; and the said Secretary shall make a statement of all such cases, which, together with all the testimony, he shall, from time to time, transmit to Congress, with such remarks as he may think proper, that Congress may be enabled to place such claimants on the pension list as shall be found entitled to the privilege. And it shall be the duty of the judge, or commissioner aforesaid, to permit each claimant to take a transcript of the evidence and proceedings had respecting his claim, if he shall desire it, and to certify the same to be correct.

SEC. 4. *And be it further enacted*, That every pension, or increase thereof, by virtue of this act, shall commence on the day when the claimant shall have completed his testimony before the authority proper to take the same.

SEC. 5. *And be it further enacted*, That an increase of pension may be allowed to persons already placed upon the pension list

of the United States, for disabilities caused by known wounds received during the revolutionary war, in all cases where justice shall require the same: *Provided*, That the increase, when added to the pension formerly received, shall in no case exceed a full pension.

Every invalid making application for this purpose, shall be examined by two reputable physicians or surgeons, to be authorized by commission from the judge of the district where such invalid resides; who shall report, in writing, on oath or affirmation, their opinion of the nature of the applicant's disability, and in what degree it prevents him from obtaining a subsistence by manual labor; which report shall be transmitted, by said physicians or surgeons, to the Secretary for the Department of War, who shall compare the same with the documents in his office, and shall make a statement of all such cases, which, together with the original report, he shall, from time to time, transmit to Congress, with such remarks as he may think proper, that they may be enabled to do justice to such pensioners.

Sec. 6. *And be it further enacted*, That a full pension given by this act to a commissioned officer, shall be one-half of the monthly pay, legally allowed, at the time of incurring said disability, to his grade in the forces raised by the United States; and the proportions, less than a full pension, shall be the correspondent proportions of said half pay; and a full pension to a non-commissioned officer, musician, soldier, marine, or seaman, shall be five dollars a month, and the proportions, less than a full pension, shall be the like proportions of five dollars a month; but no pension of a commissioned officer shall be calculated at a higher rate than the half pay of a lieutenant colonel.

Sec. 7. *And be it further enacted*, That the pensions, or increase thereof, which may be allowed by this act, shall be paid in the same manner as pensions to invalids who have been heretofore placed on the pension list are now paid, and under such restrictions and regulations, in all respects, as are prescribed by law.

Sec. 8. *And be it further enacted*, That, from and after the passage of this act, no sale, transfer, or mortgage, of the whole, or any part, of the pension payable to any non-commissioned officer, musician, soldier, marine, or seaman, before the same becomes due, shall be valid. And every person claiming such pension, or any part thereof, under power of attorney or substitution, shall, before the same is paid, make oath or affirmation, before some magistrate, legally authorized to take the same, a copy of which, attested by said magistrate, shall be lodged with the person who pays said pension, that such power or substitution is not given by reason of any transfer of such pension, or part thereof. And any person who shall swear or affirm falsely in the premises, and be thereof convicted, shall suffer as for wilful and corrupt perjury.

Sec. 9. *And be it further enacted*, That all laws of the United States heretofore passed, so far as they authorize persons to be

placed on the pension list of the United States, for, and in consequence of, disabilities derived from known wounds received in the revolutionary war, shall be, and they are hereby, repealed: *Provided*, That nothing in this repealing clause shall injure, or in any way affect, those persons already upon the pension list of the United States; and that the Secretary for the Department of War shall proceed upon the testimony which has been transmitted to him by any claimant, before the passage of this act, in the same manner as though this act had never passed.

SEC. 10. *And be it further enacted*, That this act, so far as it authorizes the admission of persons upon the pension list of the United States, shall remain in force for and during the space of six years from the passage thereof, and no longer: * *Provided*, That this limitation shall not affect or impair the right of any invalid who may have completed his testimony, in the manner described by this act, before this limitation commences its operation, but which has not been transmitted to the Secretary for the Department of War.

[36.]

[*Laws of the U. S., vol. 4, page 122.*]

CHAP. 103. An act concerning invalid pensioners.

1. The Secretary of War to place the persons named on the pension list according to the rates mentioned. 2. The pensions of the persons named, already on the pension list, to be increased as specified. 3. The pension of Benjamin Bartlett, employed as an escort, &c., during hostilities with the Indians in 1794, and disabled, increased. 4. Pensioners in virtue of this act to be paid as invalid pensioners have been paid heretofore.

APPROVED, MARCH 3, 1807.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, directed to place the following named persons, whose claims have been transmitted to Congress, pursuant to a law passed the tenth of April, one thousand eight hundred and six,† on the pension list of invalid pensioners of the United States, according to the rates, and to commence at the times, herein mentioned; that is to say:

Richard Fairbrother, at the rate of three dollars per month, to commence on the twenty-sixth day of May, one thousand eight hundred and six:

John de Voe, at the rate of two dollars and fifty cents per month, to commence on the first day of August, one thousand eight hundred and six:

Peter Demarest, at the rate of three dollars and seventy-five cents per month, to commence on the first day of August, one thousand eight hundred and six:

* Revived and continued for six years by act of 25th April, 1812—post.

† See act of that date, No. [35.]—ante.

Stephen Ogden, at the rate of two dollars and fifty cents per month, to commence on the twenty-fifth day of August, one thousand eight hundred and six :

John Berry, at the rate of five dollars per month, to commence on the second day of September, one thousand eight hundred and six :

John King, at the rate of four dollars per month, to commence on the eighteenth day of October, one thousand eight hundred and six :

Robert Ames, at the rate of five dollars per month, to commence on the eighteenth day of October, one thousand eight hundred and six :

Charles Gowen, at the rate of two dollars and fifty cents per month, to commence on the thirty-first day of October, one thousand eight hundred and six :

Francis L. Slaughter, at the rate of three dollars per month, to commence on the fifteenth day of November, one thousand eight hundred and six :

William Re Beck, at the rate of four dollars per month, to commence on the twenty-second day of November, one thousand eight hundred and six :

Spafford Ames, at the rate of five dollars per month, to commence on the eleventh day of December, one thousand eight hundred and six :

Josiah Jones, at the rate of four dollars per month, to commence on the twenty-second day of December, one thousand eight hundred and six :

Samuel Dowdney, at the rate of two dollars and fifty cents per month, to commence on the twenty-seventh day of December, one thousand eight hundred and six :

Eliphalet Easton, at the rate of five dollars per month, to commence on the thirty-first day of December, one thousand eight hundred and six :

Joseph Ligon, at the rate of three dollars per month, to commence on the eighth day of January, one thousand eight hundred and seven :

John Hubbard, at the rate of three dollars per month, to commence on the eighth day of January, one thousand eight hundred and seven :

Daniel Guard, at the rate of two dollars and fifty cents per month, to commence on the twenty-third day of January, one thousand eight hundred and seven :

Elisha Forbes, at the rate of three dollars per month, to commence on the twenty-fourth day of January, one thousand eight hundred and seven :

Alexander Simonton, at the rate of three dollars per month, to commence on the ninth day of January, one thousand eight hundred and seven :

Noah Robinson, at the rate of ten dollars per month, to commence on the twenty-third day of October, one thousand eight hundred and six :

Charles Mynn Thruston, at the rate of twenty dollars per month, to commence on the fourteenth day of July, one thousand eight hundred and six :

Jonas Farnsworth, at the rate of ten dollars per month, to commence on the second day of September, one thousand eight hundred and six :

Benoni Hathaway, at the rate of ten dollars per month, to commence on the sixth day of September, one thousand eight hundred and six :

Thomas Marshal Baker, at the rate of ten dollars per month, to commence on the twenty-ninth day of September, one thousand eight hundred and six :

James Dysart, at the rate of ten dollars per month, to commence on the eighteenth day of December, one thousand eight hundred and six :

Henry Ten Eyck, at the rate of ten dollars per month, to commence on the eighth day of January, one thousand eight hundred and seven :

John Little, at the rate of twenty dollars per month, to commence on the thirteenth day of January, one thousand eight hundred and seven :

Thomas Harris, at the rate of fifteen dollars per month, to commence on the third day of October, one thousand eight hundred and six :

Daniel Ball, at the rate of ten dollars per month, to commence on the seventeenth day of February, one thousand eight hundred and seven :

SEC. 2. *And be it further enacted*, That the pensions of the following persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid, be increased to the sums herein, respectively, annexed to their names, the said increase to commence at the times herein mentioned ; that is to say :

Seth Wyman, four dollars per month, to commence on the sixteenth day of June, one thousand eight hundred and six :

George Bradford, five dollars per month, to commence on the fifteenth day of August, one thousand eight hundred and six :

Abel Furney, five dollars per month, to commence on the twenty-ninth day of August, one thousand eight hundred and six :

Charles Scott, five dollars per month, to commence on the first day of September, one thousand eight hundred and six :

Ephraim Bailly, five dollars per month, to commence on the fourth day of September, one thousand eight hundred and six :

Asa Ware, five dollars per month, to commence on the ninth day of September, one thousand eight hundred and six :

Daniel Hickey, five dollars per month, to commence on the twenty-fourth day of September, one thousand eight hundred and six :

Daniel Nutting, two dollars per month, to commence on the seventh day of October, one thousand eight hundred and six :

Able Woods, five dollars per month, to commence on the tenth day of October, one thousand eight hundred and six :

Joseph Morrill, five dollars per month, to commence on the twenty-fourth day of October, one thousand eight hundred and six :

William Neley, five dollars per month, to commence on the twenty-fourth day of October, one thousand eight hundred and six :

Elisha Frizle, three dollars and seventy-five cents per month, to commence on the third day of November, one thousand eight hundred and six :

William Burritt, five dollars per month, to commence on the third day of November, one thousand eight hundred and six :

Benjamin Smith, five dollars per month, to commence on the third day of November, one thousand eight hundred and six :

George Pittman, five dollars per month, to commence on the first day of February, one thousand eight hundred and seven :

Gustavus Alrick, three dollars and thirty-three cents and one-third of a cent per month, to commence on the twenty-first day of November, one thousand eight hundred and six :

Jabez Pembleton, two dollars and fifty cents per month, to commence on the twenty-seventh day of December, one thousand eight hundred and six :

Wiat Hinkley, five dollars per month, to commence on the twenty-eighth day of December, one thousand eight hundred and six :

Edward Evans, five dollars per month, to commence on the fifteenth day of January, one thousand eight hundred and seven :

Moses Wing, five dollars per month, to commence on the twenty-fourth day of December, one thousand eight hundred and six :

John Cavenough, three dollars per month, to commence on the seventeenth day of January, one thousand eight hundred and seven :

Richard Hardin, five dollars per month, to commence on the eleventh day of September, one thousand eight hundred and six :

Jonathan Holton, ten dollars per month, to commence on the eighth day of September, one thousand eight hundred and six :

Jonathan Willard, five dollars per month, to commence on the eighth day of September, one thousand eight hundred and six :

Thomas Pierson, thirteen dollars thirty-three cents and one-third of one cent per month, to commence on the twenty-eighth day of July, one thousand eight hundred and six :

John Maynard, six dollars per month, to commence on the twenty-fifth day of July, one thousand eight hundred and six :

Thomas Avery, sixteen dollars sixty-six cents and two-thirds of one cent per month, to commence on the third day of October, one thousand eight hundred and six :

Ebenezer Coe, twenty dollars per month, to commence on the thirty-first day of July, one thousand eight hundred and six :

Ebenezer Bancroft, six dollars per month, to commence on the thirty-first day of October, one thousand eight hundred and six :

William Worthington, fifteen dollars per month, to commence on the nineteenth day of November, one thousand eight hundred and six :

Lavid Hawley, ten dollars per month, to commence on the eighth day of December, one thousand eight hundred and six.

SEC. 3. *And be it further enacted*, That the pension of Benjamin Bartlett, of Massachusetts, who was employed in the service of the United States as an escort, spy, and guide, at the pay of one dollar per day, during hostilities with certain Indian tribes, in the year one thousand seven hundred and ninety-four, and was disabled by being wounded whilst in said service, be increased to five dollars per month.

SEC. 4. *And be it further enacted*, That the pensioners becoming such in virtue of this act, shall be paid in the same manner as invalid pensioners are paid, who have heretofore been placed on the pension list of the United States, under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

[37.]

[*Laws of the U. S., vol. 4, page 161.*]

CHAP. 147. An act to raise for a limited time an additional military force.

The officers, cadets, non-commissioned officers, &c., entitled to like compensation in case of disability as officers of the present military establishment: The provisions of the act fixing the military peace establishment applicable to the persons, matters, and things, within the intent and meaning of this act.

APPROVED, APRIL 12, 1808.

SEC. 5. *Be it further enacted*, That the officers, cadets, non-commissioned officers, musicians, artificers, and privates, raised pursuant to this act, shall be entitled to the like compensation, in case of disability by wounds, and otherwise, incurred in the service, as the officers, cadets, non-commissioned officers, musicians, artificers, and privates, in the present military establishment. *

* And that the provisions of the act, entitled "An act fixing the military peace establishment of the United States,"* relative to the widow, child, or children, of any commissioned officer who shall die, while in the service of the United States, by reason of any wound received in actual service of the United States, * * shall be in force, and applied to all persons, matters, and things, within the intent and meaning of this act, in the same manner as if they were inserted at large in the same.

* See act of March 16, 1802, No. [30.]—ante.

[38.]

[*Laws of the U. S., vol. 4, page 170.*]

CHAP. 162. An act concerning invalid pensioners.

1. The Secretary of War directed to place the persons named on the pension list of invalid pensioners, according to the rates mentioned: Names of persons to be placed by the Secretary of War on the pension list. 2. The pensions of the persons named to be increased as specified. 3. The Secretary of War directed to place on the pension list of the United States all persons who remain on the pension lists of the States, and who were placed thereon in consequence of disability, &c., during the revolutionary war: The pension allowance not to exceed the sums specified by the 6th sec. of the act referred to: In every case where application is made, satisfactory documents from the proper officers must be adduced. 4. Any officer, non-commissioned officer, musician, or private, wounded or disabled since the revolutionary war, may be placed on the pension list at such rates of compensation as are prescribed by the act referred to. 5. Pensioners in virtue of this act to be paid in the same manner as invalid pensioners heretofore placed on the list.

APPROVED, APRIL 25, 1808.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, directed to place the following named persons, whose claims have been transmitted to Congress, pursuant to a law passed the tenth of April, one thousand eight hundred and six,* on the pension list of invalid pensioners of the United States, according to the rates, and to commence at the times herein mentioned; that is to say:*

Thomas Lamar Davis, at the rate of two dollars and fifty cents per month, to commence on the twenty-ninth day of December, one thousand eight hundred and seven.

Albert Chapman, at the rate of ten dollars per month, to commence on the seventeenth day of October, one thousand eight hundred and seven.

Ambrose Homan, at the rate of two dollars and fifty cents per month, to commence on the fifteenth day of December, one thousand eight hundred and six.

Richard Scott, at the rate of two dollars and fifty cents per month, to commence on the fifth day of October, one thousand eight hundred and seven.

Francis Blood, at the rate of five dollars per month, to commence on the sixteenth day of December, one thousand eight hundred and six.

Jonas Green, at the rate of five dollars per month, to commence on the eighth day of October, one thousand eight hundred and seven.

William Green, at the rate of eight dollars per month, to commence on the seventh day of February, one thousand eight hundred and seven.

Seth Weed, at the rate of six dollars per month, to commence on the seventh day of October, one thousand eight hundred and seven.

* See act of that date, No. [35.]—ante.

Samuel Lathrop, at the rate of five dollars per month, to commence on the twenty-second day of September, one thousand eight hundred and seven.

Peter Smith, at the rate of four dollars per month, to commence on the sixteenth day of July, one thousand eight hundred and six.

William Johnson, at the rate of two dollars and fifty cents per month, to commence on the first day of April, one thousand eight hundred and seven.

James Houston, at the rate of fifteen dollars per month, to commence on the thirteenth day of July, one thousand eight hundred and seven.

Jedediah Hyde, at the rate of fifteen dollars per month, to commence on the third day of August, one thousand eight hundred and seven.

Samuel Nesbit, at the rate of five dollars per month, to commence on the eighteenth day of October, one thousand eight hundred and seven.

Shepherd Packard, at the rate of three dollars per month, to commence on the seventh day of February, one thousand eight hundred and seven.

Richard Kisby, at the rate of four dollars per month, to commence on the twenty-fourth day of March, one thousand eight hundred and seven.

Jonathan Wilkins, at the rate of two dollars and fifty cents per month, to commence on the twenty-sixth day of March, one thousand eight hundred and seven.

Waterman Baldwin, at the rate of five dollars per month, to commence on the twenty-fifth day of October, one thousand eight hundred and seven.

John Clark, at the rate of eight dollars per month, to commence on the fifteenth day of December, one thousand eight hundred and seven.

John Venus, at the rate of two dollars and fifty cents per month, to commence on the eleventh day of December, one thousand eight hundred and seven.

John Holcombe, at the rate of fifteen dollars per month, to commence on the first day of December, one thousand eight hundred and seven.

Richard Steads, at the rate of four dollars per month, to commence on the ninth day of December, one thousand eight hundred and seven.

Alexander Jones, at the rate of three dollars thirty-three and one-third cents per month, to commence on the nineteenth day of June, one thousand seven hundred and eighty-four.

Benjamin Saddler, at the rate of three dollars per month, to commence on the first day of January, one thousand eight hundred and three.

Benjamin Jinkins, at the rate of two dollars and fifty cents per month, to commence on the sixteenth day of December, one thousand eight hundred and seven.

William Scott, at the rate of twenty-five dollars per month, to commence on the twelfth day of March, one thousand eight hundred and seven.

James Bruff, at the rate of twenty dollars per month, to commence on the seventeenth day of August, one thousand eight hundred and seven.

Nathan Taylor, at the rate of ten dollars per month, to commence on the nineteenth day of February, one thousand eight hundred and eight.

Aaron Stevens, at the rate of ten dollars per month, to commence on the twenty-fourth day of February, one thousand eight hundred and eight.

Simon Morgan, at the rate of twenty dollars per month, to commence on the second day of March, one thousand eight hundred and eight.

Jonathan Patch, at the rate of five dollars per month, to commence on the eleventh day of July, one thousand eight hundred and six.

Ebenezer Rowe, at the rate of five dollars per month, to commence on the sixteenth day of January, one thousand eight hundred and seven.

Benjamin Kendrick, at the rate of three dollars thirty-three and one-third cents per month, to commence on the first day of January, one thousand seven hundred and eighty-six.

Nicholas Hoff, at the rate of five dollars per month, to commence on the twenty-second day of February, one thousand eight hundred and eight.

Samuel Shaw, at the rate of eight dollars per month, to commence on the thirteenth day of February, one thousand eight hundred and eight.

Nicholas Lott, at the rate of two dollars and fifty cents per month, to commence on the twenty-third day of January one thousand eight hundred and eight.

Humphrey Becket, at the rate of two dollars and fifty cents per month, to commence on the eighth day of January, one thousand eight hundred and eight.

Silas Parrot, at the rate of six dollars per month, to commence on the tenth day of February, one thousand eight hundred and eight.

Jared Hinckley, junior, at the rate of two dollars and fifty cents per month, to commence on the nineteenth day of January, one thousand eight hundred and eight.

Francis Davidson, at the rate of four dollars per month, to commence on the sixteenth day of January, one thousand eight hundred and eight.

Andrew Wagoner, at the rate of twenty dollars per month, to commence on the second day of November, one thousand eight hundred and seven.

George Richardson, at the rate of four dollars per month, to commence on the tenth day of February, one thousand eight hundred and eight.

William Wallace, at the rate of eight dollars per month, to commence on the thirtieth day of January, one thousand eight hundred and eight.

Joseph Bird, at the rate of four dollars per month, to commence on the twenty-ninth day of January, one thousand eight hundred and eight.

John St. John, at the rate of five dollars per month, to commence on the twenty-ninth day of January, one thousand eight hundred and eight.

Abner Snow, at the rate of three dollars and seventy-five cents per month, to commence on the twenty-seventh day of January, one thousand eight hundred and eight.

Aaron Crane, at the rate of two dollars and fifty cents per month, to commence on the third day of November, one thousand eight hundred and seven.

James Hawkley, at the rate of five dollars per month, to commence on the sixth day of January, one thousand eight hundred and eight.

Elijah Morse, at the rate of four dollars per month, to commence on the sixth day of January, one thousand eight hundred and eight.

John Van Anglen, at the rate of fifteen dollars per month, to commence on the third day of November, one thousand eight hundred and seven.

James Boden, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of March, one thousand eight hundred and eight.

Isaac Burnham, at the rate of four dollars per month, to commence on the first day of January, one thousand eight hundred and three.

Benjamin Hillman, at the rate of ten dollars per month, to commence on the fourteenth day of March, one thousand eight hundred and eight.

Silas Pierce, at the rate of ten dollars per month, to commence on the seventh day of March, one thousand eight hundred and eight.

Randal M'Allastor, at the rate of five dollars per month, to commence on the seventh day of March, one thousand eight hundred and eight.

John Durnal, at the rate of three dollars per month, to commence on the seventh day of April, one thousand eight hundred and eight.

Jabez Church, at the rate of two dollars and fifty cents per month, to commence on the twenty-second day of February, one thousand eight hundred and eight.

Thomas Machen, at the rate of ten dollars per month, to commence on the nineteenth day of March, one thousand eight hundred and eight.

David Richey, at the rate of two dollars and fifty cents per month, to commence on the second day of April, one thousand eight hundred and eight.

SEC. 2. *And be it further enacted*, That the pensions of the following persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid,* be increased to the sums herein, respectively, annexed to their names, the said increase to commence at the times herein mentioned; that is to say:

James Campbell, four dollars per month, to commence on the twenty-fifth day of September, one thousand eight hundred and seven.

John Beardsley, jun., five dollars per month, to commence on the thirteenth day of November, one thousand eight hundred and seven.

Thomas Bristol, five dollars per month, to commence on the twenty-second day of October, one thousand eight hundred and seven.

Josiah Smith, five dollars per month, to commence on the twenty-ninth day of December, one thousand eight hundred and seven.

Joseph Ware, five dollars per month, to commence on the twenty-ninth day of December, one thousand eight hundred and seven.

Daniel Buck, five dollars per month, to commence on the seventeenth day of December, one thousand eight hundred and seven.

Lemuel King, five dollars per month, to commence on the twenty-third day of December, one thousand eight hundred and seven.

William Wallace, five dollars per month, to commence on the seventeenth day of November, one thousand eight hundred and seven.

Joseph Saunders, five dollars per month, to commence on the seventh day of February, one thousand eight hundred and seven.

William Hastings, five dollars per month, to commence on the eleventh day of February, one thousand eight hundred and seven.

Joshua Lovejo, five dollars per month, to commence on the fifth day of June, one thousand eight hundred and seven.

Isaac Higgins, three dollars thirty-three and one-third cents per month, to commence on the twenty-ninth day of September, one thousand eight hundred and seven.

Reuben Dow, fifteen dollars per month, to commence on the nineteenth day of February, one thousand eight hundred and seven.

Joseph Harrup, five dollars per month, to commence on the fifteenth day of September, one thousand eight hundred and seven.

David Ranney, five dollars per month, to commence on the fifth day of November, one thousand eight hundred and seven.

John Whitehorn, five dollars per month, to commence on the thirtieth day of September, one thousand eight hundred and seven.

* See act of 10th April, 1806, No. [35].—ante.

Richard Sherman, five dollars per month, to commence on the eighth day of October, one thousand eight hundred and seven.

Noah Sinclair, three dollars and seventy-five cents per month, to commence on the eighth day of October, one thousand eight hundred and seven.

Nathaniel Church, five dollars per month, to commence on the eighth day of October, one thousand eight hundred and seven.

Gershom Clarke, five dollars per month, to commence on the first day of January, one thousand eight hundred and eight.

John M'Kinstrey, twelve dollars per month, to commence on the seventh day of December, one thousand eight hundred and seven.

Ebenezer Perkins, five dollars per month, to commence on the fifteenth day of September, one thousand eight hundred and seven.

Henry Ten Eyck, fifteen dollars per month, to commence on the twenty-first day of November, one thousand eight hundred and seven.

Thomas Simpson, thirteen dollars thirty-three and one-third cents, to commence on the twenty-fourth day of December, one thousand eight hundred and six.

John Rybecker, four dollars per month, to commence the eighteenth day of April, one thousand eight hundred and seven.

Lemuel Dean, five dollars per month, to commence on the eighth day of October, one thousand eight hundred and seven.

Thomas Johnson, five dollars per month, to commence on the seventeenth day of April, one thousand eight hundred and seven.

Levi Chubbuck, three dollars and seventy-five cents per month, to commence on the twentieth day of June, one thousand eight hundred and seven.

George Walter, two dollars and fifty cents per month, to commence on the twenty-fourth day of February, one thousand eight hundred and eight.

Samuel Rosseter, five dollars per month, to commence on the thirtieth day of January, one thousand eight hundred and eight.

Jeremiah Prichard, thirteen dollars thirty-three and one-third cents per month, to commence on the sixth day of January, one thousand eight hundred and eight.

Abner Gage, five dollars per month, to commence on the twenty-sixth day of January, one thousand eight hundred and eight.

John Devoe, five dollars per month, to commence on the thirtieth day of January, one thousand eight hundred and eight.

Nathaniel Bradley, five dollars per month, to commence on the twenty-sixth day of January, one thousand eight hundred and eight.

Thaddeus Seely, two dollars and fifty cents per month, to commence on the ninth day of January, one thousand eight hundred and eight.

John Herron, two dollars and fifty cents per month, to commence on the twenty-sixth day of January, one thousand eight hundred and eight.

Peter Nevius, four dollars per month, to commence on the seventeenth day of February, one thousand eight hundred and eight.

John Hampton, six dollars per month, to commence on the seventeenth day of February, one thousand eight hundred and eight.

Rosswell Woodworth, five dollars per month, to commence on the twenty-third day of March, one thousand eight hundred and eight.

David Hulbell, five dollars per month, to commence on the nineteenth day of March, one thousand eight hundred and eight.

John M^cKoy, five dollars per month, to commence on the fifteenth day of March, one thousand eight hundred and eight.

Caleb Hunt, five dollars per month, to commence on the fifth day of March, one thousand eight hundred and eight.

Henry Gates, five dollars per month, to commence on the ninth day of March, one thousand eight hundred and eight.

David Hall, five dollars per month, to commence on the twelfth day of February, one thousand eight hundred and eight.

Jonah Cook, five dollars per month, to commence on the fourth day of April, one thousand eight hundred and eight.

William Nelson, five dollars per month, to commence on the twenty-second day of day of January, one thousand eight hundred and eight.

SEC. 3. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and directed to place on the pension list of the United States, all persons who now remain on the pension list of any of the States; and who were placed on the same in consequence of disability occasioned by known wounds received during the revolutionary war, whether such person or persons served in the land or sea service of the forces of the United States, or of any particular State, in the regular corps, or the militia, or as volunteers: *Provided*, That in no case the pensions allowed to such person or persons shall exceed the sums specified by the sixth section of an act, entitled "An act to provide for persons who were disabled by known wounds received in the revolutionary war,"* passed the tenth day of April, one thousand eight hundred and six: *And provided*, That in every case where application shall be made to have such person or persons placed on the pension list of the United States, under this law, satisfactory documents, from the proper officers of the State, shall be adduced to establish the fact of such person or persons having been placed on the State pension list in consequence of disability occasioned by known wounds received during the revolutionary war.

SEC. 4. *And be it further enacted*, That any officer, non-commissioned officer, musician, or private, who has been wounded or disabled since the revolutionary war, while in the line of his duty, in the actual service of the United States, whether he belong to the military establishment or the militia, or any volunteer corps, called into service, under the authority of the United States, may be placed on the pension list of the United States, at such rate of compensation, and under such regulations, as are prescribed by

* See act of that date, No. [35.]—ante.

the act, entitled "An act to provide for persons who were disabled by known wounds received in the revolutionary war,"* passed April the tenth, one thousand eight hundred and six.

SEC. 5. *And be it further enacted*, That the pensioners, becoming such in virtue of this act, shall be paid in the same manner as invalid pensioners are paid who have heretofore been placed on the pension list of the United States, under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

[39.]

[*Laws of the U. S., vol. 4, page 189.*]

CHAP. 175. An act authorizing the payment of certain pensions by the Secretary of War, at the seat of government.

Every pension due on the 3d of March, 1809, or thereafter, to any officer or soldier residing in either of the United States, in which there has not been appointed an agent, to be paid at the seat of government of the United States, and the name of the pensioner to be transferred to a register, &c.

APPROVED, JANUARY 7, 1809.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That every pension, or arrearage of pension, that shall be due on the third day of March, one thousand eight hundred and nine, or that may thereafter become due, to any officer or soldier residing in either of the United States, or the Territories thereof, in which there hath not been appointed an agent for the payment of pensions, shall be paid at the seat of the government of the United States, by the Secretary of the War Department, and the name of the pensioner shall, on his application to the Secretary of War, be transferred from the books of the State in which it was originally registered, to a register to be opened for that purpose at the War Office of the United States.

[40.]

[*Laws of the U. S., vol. 4, page 226.*]

CHAP. 208. An act concerning invalid pensioners.

1. The Secretary of War to place the persons named on the pension list according to the rates mentioned. 2. The pensions of the persons named, already on the pension list, to be increased as specified. 3. Pensioners in virtue of this act to be paid in the same manner as invalid pensioners heretofore placed on the list.

APPROVED, MARCH 3, 1809.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

* See act of that date, No. [35.]—ante.

the Secretary of War be, and he is hereby, directed to place the following named persons, whose claims have been transmitted to Congress pursuant to a law passed the tenth of April, one thousand eight hundred and six, on the pension list of invalid pensioners of the United States, according to the rates, and to commence at the times, herein mentioned ; that is to say :

Oxford Tash, at the rate of two dollars and fifty cents per month, to commence on the first day of January, one thousand eight hundred and seven.

Hezekiah Sawtell, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of September, one thousand eight hundred and eight.

Amos Spafford, at the rate of three dollars thirty three and one-third cents per month, to commence on the twenty-third day of October, one thousand eight hundred and eight.

Josiah Temple, at the rate of two dollars per month, to commence on the fifteenth day of April, one thousand eight hundred and eight.

Isaac Abbott, at the rate of eight dollars per month, to commence on the nineteenth day of November, one thousand eight hundred and eight.

Thaddeus Waugh, at the rate of five dollars per month, to commence on the thirty-first day of May, one thousand eight hundred and eight.

Joel Hinman, at the rate of five dollars per month, to commence on the eighth day of June, one thousand eight hundred and eight.

David Pendleton, at the rate of five dollars per month, to commence on the twentieth day of May, one thousand eight hundred and eight.

Eliphalet Sherwood, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of May, one thousand eight hundred and eight.

Daniel Treadwell, at the rate of four dollars per month, to commence on the twentieth day of May, one thousand eight hundred and eight.

Obadiah Perkins, at the rate of eight dollars per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

John Daboll, at the rate of sixty-two and one-half cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Gideon Edwards, at the rate of five dollars per month, to commence on the seventeenth day of December, one thousand eight hundred and eight.

Elijah Sheldon, at the rate of two dollars and fifty cents per month, to commence on the nineteenth day of December, one thousand eight hundred and eight.

Nathaniel Church, at the rate of two dollars and fifty cents per month, to commence on the thirtieth day of December, one thousand eight hundred and eight.

Richard Mellen, at the rate of five dollars per month, to commence on the ninth day of November, one thousand eight hundred and eight.

Elisha Prior, at the rate of three dollars and seventy-five cents per month, to commence on the thirteenth day of December, one thousand eight hundred and eight.

John Cramer, at the rate of two dollars and fifty cents per month, to commence on the twenty-fifth day of April, one thousand eight hundred and eight.

James Phillips, at the rate of two dollars and fifty cents per month, to commence on the nineteenth day of April, one thousand eight hundred and eight.

John Walsh, at the rate of two dollars and fifty cents per month, to commence on the eighth day of September, one thousand eight hundred and eight.

Samuel Lindsley, at the rate of three dollars and seventy-five cents per month, to commence on the thirty-first day of October, one thousand eight hundred and eight.

John Fergus, at the rate of two dollars per month, to commence the twentieth day of October, one thousand eight hundred and eight.

Joseph Elliot, at the rate of three dollars thirty-three and one-third cents per month, to commence on the twenty-first day of April, one thousand eight hundred and eight.

James Correar, at the rate of two dollars per month, to commence on the twenty-fifth day of November, one thousand eight hundred and eight.

John Smith, at the rate of two dollars and fifty cents per month, to commence on the twenty-seventh day of January, one thousand eight hundred and eight.

Joseph White, at the rate of three dollars and seventy-five cents per month, to commence on the twenty-second day of February, one thousand eight hundred and eight.

Edward Tuck, at the rate of three dollars per month, to commence on the second day of January, one thousand eight hundred and eight.

Evan Ragland, at the rate of three dollars per month, to commence on the seventh day of January, one thousand eight hundred and eight.

John Crute, at the rate of thirteen dollars per month, to commence on the twenty-eighth day of September, one thousand eight hundred and eight.

William Evans, at the rate of eight dollars per month, to commence on the twenty-first day of November, one thousand eight hundred and eight.

John Carmichael, at the rate of five dollars per month, to commence on the first day of December, one thousand eight hundred and eight.

Benjamin Vickery, at the rate of three dollars per month, to commence on the fourteenth day of June, one thousand eight hundred and eight.

Joshua Hawkins, at the rate of three dollars per month, to commence on the twenty-fifth day of March, one thousand eight hundred and eight.

Joseph M'Junkin, at the rate of twelve dollars per month, to commence on the eighteenth day of October, one thousand eight hundred and eight.

Samuel Otterson, at the rate of eight dollars per month, to commence on the sixth day of October, one thousand eight hundred and eight.

William Carr, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of March, one thousand eight hundred and eight.

Jonathan Tinsley, at the rate of five dollars per month, to commence on the twenty-third day of September, one thousand eight hundred and eight.

James Gallespie, at the rate of four dollars per month, to commence on the eighteenth day of June, one thousand eight hundred and eight.

Christian Smith, at the rate of five dollars per month, to commence on the fifth day of November, one thousand eight hundred and eight.

Bartholomew Berry, at the rate of five dollars per month, to commence on the seventh day of November, one thousand eight hundred and eight.

John Robert Shaw, at the rate of five dollars per month, to commence on the twelfth day of October, one thousand eight hundred and eight.

Samuel Burton, at the rate of two dollars and fifty cents per month, to commence on the twenty-ninth day of December, one thousand eight hundred and eight.

Nathaniel Hewitt, at the rate of three dollars and seventy-five cents per month, to commence on the fifth day of January, one thousand eight hundred and nine.

Jacob Redenour, at the rate of five dollars per month, to commence the tenth day of April, one thousand eight hundred and six.

William Keough, at the rate of five dollars per month, to commence on the twenty-third day of January, one thousand eight hundred and nine.

Isaiah Corben, at the rate of two dollars and fifty cents per month, to commence on the thirty-first day of October, one thousand eight hundred and eight.

Joseph Richardson, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of January, one thousand eight hundred and nine.

William Johnson, at the rate of two dollars and fifty cents per month, to commence on the eighteenth day of January, one thousand eight hundred and nine.

Henry Overley, at the rate of five dollars per month, to commence on the first day of December, one thousand eight hundred and eight.

Abraham Gamble, at the rate of five dollars per month, to commence on the eighteenth day of January, one thousand eight hundred and nine.

William M'Clannahan, at the rate of two dollars and fifty cents per month, to commence on the twenty-seventh day of October, one thousand eight hundred and eight.

William M'Laland, at the rate of five dollars per month, to commence on the fourth day of February, one thousand eight hundred and nine.

SEC. 2. *And be it further enacted*, That the pensions of the following persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid, be increased to the sums herein, respectively, annexed to their names; the said increase to commence at the times here mentioned; that is to say:

William Curtis, five dollars per month, to commence on the twenty-first day of September, one thousand eight hundred and eight.

Samuel Potter, three dollars thirty-three and one-third cents per month, to commence on the sixth day of September, one thousand eight hundred and eight.

Thomas Haines, five dollars per month, to commence on the seventeenth day of January, one thousand eight hundred and seven.

Daniel Bussell, five dollars per month, to commence on the third day of October, one thousand eight hundred and eight.

William Wood, three dollars thirty-three and one-third cents per month, to commence on the fourteenth day of September, one thousand eight hundred and eight.

Thomas Pratt, three dollars thirty-three and one-third cents per month, to commence on the twenty-fourth day of October, one thousand eight hundred and eight.

Ebenezer Tinkham, two dollars and fifty cents per month, to commence on the eighth day of November, one thousand eight hundred and eight.

Joseph Brown, five dollars per month, to commence on the third day of June, one thousand eight hundred and eight.

Benjamin Merrill, three dollars thirty-three and one-third cents per month, to commence on the twenty-eighth day of September, one thousand eight hundred and eight.

William Leach, five dollars per month, to commence on the second day of May, one thousand eight hundred and eight.

Constant Webb, three dollars per month, to commence on the thirtieth day of May, one thousand eight hundred and eight.

Jonathan Bowers, five dollars per month, to commence on the twenty-third day of July, one thousand eight hundred and eight.

Abner Andrews, five dollars per month, to commence on the first day of September, one thousand eight hundred and eight.

Josiah Merryman, five dollars per month, to commence on the seventeenth day of September, one thousand eight hundred and eight.

Samuel Burdwin, five dollars per month, to commence on the twenty-third day of September, one thousand eight hundred and eight.

Oliver Bostwick, ten dollars per month, to commence on the third day of October, one thousand eight hundred and eight.

Edward Bassett, two dollars and fifty cents per month, to commence on the twenty-eighth day of April, one thousand eight hundred and eight.

Jeremiah Markham, three dollars and seventy-five cents per month, to commence on the third day of June, one thousand eight hundred and eight.

Samuel Andrus, three dollars and seventy-five cents per month, to commence on the twenty-third day of September, one thousand eight hundred and eight.

Elisha Clark, two dollars and fifty cents per month, to commence on the twenty-eighth day of September, one thousand eight hundred and eight.

Aaron Tuttle, three dollars thirty-three and one-third cents per month, to commence on the twenty-fifth day of October, one thousand eight hundred and eight.

Benjamin Sturges, four dollars per month, to commence the twenty-fifth day of October, one thousand eight hundred and eight.

Burr Gilbert, five dollars per month, to commence the twenty-eighth day of July, one thousand eight hundred and eight.

Jehiel Judd, four dollars per month, to commence on the sixteenth day of April, one thousand eight hundred and eight.

Ashbel Hosmer, five dollars per month, to commence on the sixth day of October, one thousand eight hundred and eight.

Andrew M'Guire, five dollars per month, to commence on the first day of August, one thousand eight hundred and eight.

John Lowry, three dollars thirty-three and one-third cents per month, to commence on the nineteenth day of April, one thousand eight hundred and eight.

James Blever, five dollars per month, to commence on the eighth day of April, one thousand eight hundred and eight.

Samuel B. White, five dollars per month, to commence on the eighth day of April, one thousand eight hundred and eight.

Judah Levy, five dollars per month, to commence on the twelfth day of April, one thousand eight hundred and eight.

Enoch Turner, five dollars per month, to commence on the fourteenth day of November, one thousand eight hundred and eight.

Edward Stanton, five dollars per month, to commence on the nineteenth day of November, one thousand eight hundred and eight.

Elisha Lee, twenty dollars per month, to commence on the thirtieth day of November, one thousand eight hundred and eight.

William Starr, three dollars and seventy-five cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

John Morgan, three dollars thirty-three and one-third cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Andrew Gallup, three dollars thirty-three and one-third cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Joseph Woodmancy, five dollars per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Solomon Perkins, five dollars per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Walter Burdick, two dollars and fifty cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Park Avery, five dollars per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Amos Avery, two dollars and fifty cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Ebenezer Avery, two dollars and fifty cents per month, to commence on the eighteenth day of November, one thousand eight hundred and eight.

Benjamin Denslow, five dollars per month, to commence on the eighth day of December, one thousand eight hundred and eight.

Amos Skeele, three dollars thirty-three and one-third cents per month, to commence on the twenty-eighth day of November, one thousand eight hundred and eight.

William Burrows, five dollars per month, to commence on the twelfth day of December, one thousand eight hundred and eight.

Elisha Frizzle, five dollars per month, to commence on the first day of January, one thousand eight hundred and nine.

John M'Kinstrey, twenty dollars per month, to commence on the first day of January, one thousand eight hundred and nine.

Samuel Gibbs, thirteen dollars thirty-three and one-third cents per month, to commence the eighth day of October, one thousand eight hundred and eight.

John Barbarick, five dollars per month, to commence on the fifteenth day of December, one thousand eight hundred and eight.

James Morgan, two dollars and fifty cents per month, to commence on the fifth day of January, one thousand eight hundred and nine.

Joseph Moxley, two dollars and fifty cents per month, to commence on the fifth day of January, one thousand eight hundred and nine.

Daniel Bill, five dollars per month, to commence on the fifth day of January, one thousand eight hundred and nine.

Christopher Latham, three dollars and seventy-five cents per month, to commence on the fifth day of January, one thousand eight hundred and nine.

SEC. 3. *And be it further enacted*, That the pensioners becoming such in virtue of this act, shall be paid in the same manner as invalid pensioners are paid, who have heretofore been placed on the pension list of the United States, under such restrictions and regulations, in all respects, as are prescribed by the laws of the United States in such cases provided.

[41.]

[*Laws of the U. S., vol. 4, page 281.*]

CHAP. 257. An act concerning invalid pensioners.

1. The Secretary of War directed to place the persons named on the pension list at the rates mentioned. 2. The pensions of the persons named to be increased as specified. 3. The Secretary of War directed to place Andrew Pinkerton on the pension list at the rate mentioned. 4. The sums appropriated by this act to be paid out of unappropriated moneys in the treasury.

APPROVED, APRIL 27, 1810.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, directed to place the following named persons, whose claims have been transmitted to Congress, pursuant to a law passed the tenth of April, one thousand eight hundred and six,* on the pension list of invalid pensioners of the United States, according to the rates, and to commence at the times, herein mentioned; that is to say:

Gideon Griggs, at the rate of two dollars and fifty cents per month, to commence on the ninth day of December, one thousand eight hundred and nine.

Elijah Brainard, at the rate of five dollars per month, to commence on the sixth day of November, one thousand eight hundred and nine.

Benjamin Cotton, at the rate of two dollars and fifty cents per month, to commence on the thirtieth day of January, eighteen hundred and nine.

William Smart, at the rate of five dollars per month, to commence on the second day of February, eighteen hundred and nine.

John Union, at the rate of two dollars and fifty cents per month, to commence on the sixth day of December, eighteen hundred and eight.

Edward Grant, at the rate of three dollars and seventy cents per month, to commence on the twenty-third day of January, eighteen hundred and nine.

Peleg Smith, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the tenth day of January, eighteen hundred and nine.

Nathaniel Ladd, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of January, eighteen hundred and nine.

* See act of that date, No. [35.]—*ante*.

John Reed, at the rate of five dollars per month, to commence on the thirty-first day of October, eighteen hundred and nine.

Joseph Slack, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the seventeenth day of October, eighteen hundred and nine.

Samuel Sterns, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of March, eighteen hundred and nine.

Enos Petett, at the rate of two dollars per month, to commence on the fifth day of June, eighteen hundred and nine.

Jonathan Perkins, at the rate of five dollars per month, to commence on the third day of May, eighteen hundred and nine.

Toney Twiney, at the rate of three dollars and seventy-five cents per month, to commence on the twenty-third day of June, eighteen hundred and eight.

James Wayland, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the sixteenth day of January, eighteen hundred and nine.

David Hurd, at the rate of three dollars and seventy-five cents per month, to commence on the twenty-third day of June, eighteen hundred and eight.

Squire Boon, at the rate of three dollars per month, to commence on the ninth day of September, eighteen hundred and nine.

Henry Shaw, at the rate of two dollars and fifty cents per month, to commence on the seventeenth day of October, eighteen hundred and nine.

Quintin Moore, at the rate of one dollar and sixty-six and two-thirds cents per month, to commence on the twenty-sixth day of August, eighteen hundred and nine.

Robert Baird, at the rate of ten dollars per month, to commence on the sixth day of May, eighteen hundred and nine.

George Tennell, at the rate of two dollars and fifty cents per month, to commence on the fifth day of December, eighteen hundred and eight.

Edward Lloyd, at the rate of thirteen dollars and thirty-three and one-third cents per month, to commence on the twenty-first day of June, eighteen hundred and nine.

John M'Chesney, at the rate of three dollars thirty-three and one-third cents per month, to commence on the twentieth day of February, eighteen hundred and ten.

Benjamin Strother, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the fifth day of October, eighteen hundred and nine.

George Cress, at the rate of two dollars and fifty cents per month, to commence on the seventh day of August, eighteen hundred and nine.

James Howard, at the rate of two dollars and fifty cents per month, to commence on the third day July, eighteen hundred and nine.

Newman Laudman, at the rate of three dollars thirty-three and one-third cents per month, to commence on the twenty-fourth day of June, eighteen hundred and nine.

John Powell, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the twentieth day of November, eighteen hundred and nine.

George Benedict, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the twenty-second day of November, eighteen hundred and nine.

Philip Philips, at the rate of two dollars and fifty cents per month, to commence on the twenty ninth day of November, eighteen hundred and nine.

Peter Conyne, at the rate of eight dollars per month, to commence on the twenty-eighth day of November, eighteen hundred and nine.

James Buxton, at the rate of four dollars per month, to commence on the twenty-second day of December, eighteen hundred and nine.

John Crookshanks, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of December, eighteen hundred and nine.

John Gilbert, at the rate of two dollars and fifty cents per month, to commence on the second day of September, eighteen hundred and eight.

Simeon Gibbs, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of March, eighteen hundred and eight.

James Berry, at the rate of one dollar and sixty-six and two-thirds cents per month, to commence on the ninth day of September, eighteen hundred and nine.

James Warson, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the twenty-second day of September, eighteen hundred and nine.

Joseph Shaler, at the rate of twenty dollars per month, to commence on the twelfth day of February, eighteen hundred and nine.

James Munn, at the rate of ten dollars per month, to commence on the eighteenth day of March, eighteen hundred and nine.

Joseph Reed, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the sixteenth day of March, eighteen hundred and nine.

Charles Kilgore, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of April, eighteen hundred and nine.

Ambrose Lewis, at the rate of two dollars and fifty cents per month, to commence on the nineteenth day of July, eighteen hundred and nine.

John Newman, at the rate of ten dollars per month, to commence on the twenty-seventh day of October, eighteen hundred and nine.

Joseph Noyes, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of January, eighteen hundred and nine.

Aaron Brinck, at the rate of five dollars per month, to commence on the twenty-sixth day of January, eighteen hundred and nine.

David Hamilton, at the rate of five dollars per month, to commence on the twenty-sixth day of January, eighteen hundred and nine.

Hackalia Doolittle, at the rate of two dollars and fifty cents per month, to commence on the twenty-fifth day of January, eighteen hundred and nine.

Peter Harford, at the rate of two dollars and fifty cents per month, to commence on the eighth day of March, eighteen hundred and ten.

John Wood, at the rate of two dollars and fifty cents per month, to commence on the third day of March, eighteen hundred and ten.

Thomas Goodrum, at the rate of two dollars and fifty cents per month, to commence on the fourteenth day of March, eighteen hundred and ten.

John Smith, at the rate of four dollars per month, to commence on the twenty-eighth day of January, eighteen hundred and nine.

Jared Duncan, at the rate of five dollars per month, to commence on the eighth day of December, eighteen hundred and nine.

John Martin, at the rate of two dollars and fifty cents per month, to commence on the twenty-first day of March, eighteen hundred and ten.

Gerardus Dingman, at the rate of five dollars per month, to commence on the fifteenth day of January, eighteen hundred and ten.

Donald M'Donald, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of January, eighteen hundred and ten.

Sec. 2. *And be it further enacted,* That the pensions of the following persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid,* be increased to the sums herein, respectively, annexed to their names, the said increase to commence at the times herein mentioned; that is to say:

William Little, five dollars per month, to commence on the twenty-second of November, eighteen hundred and nine.

Walker Baylor, twenty dollars per month, to commence on the twenty-ninth of December, eighteen hundred and eight.

Isaac Bennet, three dollars and thirty-three and one-third cents per month, to commence on the twenty-sixth of June, eighteen hundred and nine.

Thomas Carhart, five dollars per month, to commence on the twenty-first of February, eighteen hundred and nine.

* See act of 10th April, 1806, No. [35.]—ante.

David Weaver, five dollars per month, to commence on the fourth of September, eighteen hundred and nine.

Josias Smith, ten dollars per month, to commence on the eleventh of May, eighteen hundred and nine.

Abiel Knapp, three dollars thirty-three and one-third cents per month, to commence on the twenty-seventh of October, eighteen hundred and eight.

Peter D. Demarest, five dollars per month, to commence on the seventh of January, eighteen hundred and nine.

Kerley Ward, three dollars thirty-three and one-third cents per month, to commence on the tenth of January, eighteen hundred and nine.

John Utter, five dollars per month, to commence on the third of January, eighteen hundred and ten.

Lee Lay, six dollars and sixty-six and two-thirds cents per month, to commence on the fourth of December, eighteen hundred and nine.

Henry Cone, five dollars per month, to commence on the fourth of December, eighteen hundred and nine.

Elihu Sabin, three dollars thirty-three and one-third cents per month, to commence on the third of October, eighteen hundred and nine.

Simon Crosby, three dollars thirty-three and one-third cents per month, to commence on the twentieth of September, eighteen hundred and nine.

William Tarbell, three dollars per month, to commence on the third of June, eighteen hundred and nine.

Jeremiah Markham, five dollars per month, to commence on the third of June, eighteen hundred and nine.

John Wakelee, five dollars per month, to commence on the first of September, eighteen hundred and eight.

David Orcutt, five dollars per month, to commence on the fifteenth of March, eighteen hundred and nine.

Jedediah Brown, two dollars and fifty cents per month, to commence on the fourteenth of October, eighteen hundred and eight.

Stephen Hempstead, three dollars and seventy-five cents per month, to commence on the third of February, eighteen hundred and nine.

Isaac Finch, five dollars per month, to commence on the twenty-first of July, eighteen hundred and eight.

Richard Lamb, three dollars thirty-three and one-third cents per month, to commence on the first of May, eighteen hundred and eight.

Solomon Stark, three dollars and seventy-five cents per month, to commence on the thirteenth of February, eighteen hundred and nine.

Nathan Hawley, three dollars thirty-three and one-third cents per month, to commence on the twenty-sixth of May, eighteen hundred and eight.

Samuel French, five dollars per month, to commence on the twenty-sixth of May, eighteen hundred and eight.

Nero Hawley, three dollars thirty-three and one-third cents per month, to commence on the twenty-sixth of May, eighteen hundred and eight.

Zeba Woodworth, five dollars per month, to commence on the fifth of September, eighteen hundred and nine.

Annianias Tubbs, two dollars and fifty cents per month, to commence on the fifteenth of March, eighteen hundred and nine.

Jonas Adams, five dollars per month, to commence on the sixth of February, eighteen hundred and nine.

Moses Smith, five dollars per month, to commence on the ninth of February, eighteen hundred and ten.

Abraham Sawyer, two dollars and fifty cents per month, to commence on the sixteenth of November, eighteen hundred and nine.

Elias Barron, five dollars per month, to commence on the sixth of June, eighteen hundred and nine.

Richard Crouch, five dollars per month, to commence on the twelfth of April, eighteen hundred and nine.

Joseph Johnson, five dollars per month, to commence on the eighteenth of March, eighteen hundred and nine.

Jeremiah Robbins, three dollars thirty-three and one-third cents per month, to commence on the thirtieth of January, eighteen hundred and nine.

Abner Kent, five dollars per month, to commence on the thirtieth of January, eighteen hundred and nine.

James Cobey, five dollars per month, to commence on the sixteenth of May, eighteen hundred and nine.

George Vaughan, thirteen dollars thirty-three and one-third cents per month, to commence on the twelfth of January, eighteen hundred and ten.

Statts Hammond, five dollars per month, to commence on the eighteenth of December, eighteen hundred and nine.

Bartlett Hawkins, five dollars per month, to commence on the eighth of March, eighteen hundred and ten.

William Foster, five dollars per month, to commence on the sixteenth of December, eighteen hundred and nine.

Samuel Johnston, five dollars per month, to commence on the first day of January, eighteen hundred and nine.

SEC. 3. *And be it further enacted*, That the Secretary of War be, and he is hereby, directed to place Andrew Pinkerton on the pension list of invalid pensioners of the United States, and to pay him at the rate of three dollars and thirty-three cents and one-third of a cent per month, commencing on the twenty-fifth of August, eighteen hundred and nine.

SEC. 4. *And be it further enacted*, That the several sums specifically appropriated by this act, shall be paid out of any moneys in the treasury not otherwise appropriated.

[42.]

[*Laws of the U. S., vol. 4, page 352.*]

CHAP. 319. An act concerning invalid pensioners.

1. The Secretary of War directed to place the persons named on the pension list of invalid pensioners, according to the rates mentioned. 2. The pensions of the persons named to be increased as specified. 3. John Calhoun and Benjamin Blackburn to be placed on the pension list at the rates mentioned. 4. Fifty-three dollars and seventy-five cents, arrears of pension, to be paid to Abraham Gamble.

APPROVED, MARCH 3, 1811.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, directed to place the following named persons, whose claims have been transmitted to Congress, pursuant to the act of the tenth of April, one thousand eight hundred and six,* on the pension list of invalid pensioners of the United States, according to the rates, and to commence at the times hereinafter mentioned; that is to say:

James Trowbridge, at the rate of three dollars and thirty-three cents per month, to commence on the fifth day of February, one thousand eight hundred and ten.

Samuel Mears, junr., at the rate of two dollars and fifty cents per month, to commence on the tenth day of December, one thousand eight hundred and ten.

Ebenezer Brown, at the rate of five dollars per month, to commence on the third day of January, one thousand eight hundred and eleven.

Elisha Capron, at the rate of two dollars and fifty cents per month, to commence on the first day of January, one thousand eight hundred and ten.

William Woodruff, at the rate of five dollars per month, to commence on the twenty-fourth day of October, one thousand eight hundred and ten.

Levi Tuttle, at the rate of one dollar and twenty-five cents per month, to commence on the seventh day of January, one thousand eight hundred and eleven.

Nathaniel Austin, at the rate of three dollars and seventy-five cents per month, to commence on the tenth day of April, one thousand eight hundred and ten.

Isaac Vincent, at the rate of five dollars per month, to commence on the twenty-second day of March, one thousand eight hundred and ten.

John Griggs, at the rate of two dollars and fifty cents per month, to commence on the seventh day of April, one thousand eight hundred and ten.

Patrick Hart, at the rate of three dollars per month, to commence on the thirtieth day of August, one thousand eight hundred and ten.

* See act of that date, No. [35.]—ante.

William Burke, at the rate of two dollars and fifty cents per month, to commence on the tenth day of October, one thousand eight hundred and eight.

John Long, at the rate of two dollars and fifty cents per month, to commence on the seventeenth day of April, one thousand eight hundred and ten.

Vincent Tapp, at the rate of two dollars and fifty cents per month, to commence on the sixth day of December, one thousand eight hundred and ten.

James Batsan, at the rate of three dollars per month, to commence on the thirteenth day of February, one thousand eight hundred and eleven.

John Brown, at the rate of two dollars and fifty cents per month, to commence on the first day of December, one thousand eight hundred and ten.

James Campin, at the rate of thirteen dollars thirty-three and one-third cents per month, to commence on the twenty-fifth day of March, one thousand eight hundred and nine.

Samuel Wells, at the rate of three dollars and seventy-five cents per month, to commence on the twenty-second day of July, one thousand eight hundred and seven.

Daniel M'Elduff, at the rate of thirteen dollars and thirty-three cents per month, to commence on the twenty-first day of July, one thousand eight hundred and eleven.

Edward Miller, at the rate of five dollars per month, to commence the third day of May, one thousand eight hundred and nine.

Daniel Fielding, at the rate of three dollars and thirty-three cents per month, to commence on the nineteenth day of September, one thousand eight hundred and nine.

SEC. 2. *And be it further enacted*, That the pensions of the following persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid,* be increased to the sums herein respectively annexed to their names; the said increase to commence at the times hereinafter mentioned; that is to say:

John Lincoln, three dollars per month, to commence on the fifteenth day of June, one thousand eight hundred and ten.

Dan Culver, five dollars per month, to commence on the tenth day of June, one thousand eight hundred and ten.

Joseph Whittenore, ten dollars per month, to commence on the twelfth day of May, one thousand eight hundred and nine.

Peter Hemmenway, five dollars per month, to commence on the eighth day of March, one thousand eight hundred and ten.

Benjamin Mastic, five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Elisha Rice, five dollars per month, to commence on the thirty-first day of March, one thousand eight hundred and ten.

* See act of April 10th, 1806, No. [35].—*ante*.

William Bailey, two dollars and fifty cents per month, to commence on the third day of July, one thousand eight hundred and ten.

Jared Knapp, five dollars per month, to commence on the nineteenth day of November, one thousand eight hundred and ten.

Solomon Reynolds, five dollars per month, to commence on the sixteenth day of January, one thousand eight hundred and eleven.

Samuel Loomis, three dollars and seventy-five cents per month, to commence on the seventh day of February, one thousand eight hundred and eleven.

Eleazer Hudson, three dollars and seventy-five cents per month, to commence on the fifteenth day of February, one thousand eight hundred and eleven.

Job Bartram, fifteen dollars per month, to commence on the twenty-fifth day of October, one thousand eight hundred and nine.

George Shell, five dollars per month, to commence on the nineteenth day of December, one thousand eight hundred and ten.

Isaac Richards, two dollars and fifty cents per month, to commence on the fourteenth day of March, one thousand eight hundred and ten.

James Patton, thirteen dollars and thirty-three cents per month, to commence on the sixth day of March, one thousand eight hundred and ten.

Robert Coddington, five dollars per month, to commence on the sixth day of March, one thousand eight hundred and ten.

Isaac Cotheall, five dollars per month, to commence on the sixth day of March, one thousand eight hundred and ten.

Seybert Odam, five dollars per month, to commence the twenty-seventh day of October, one thousand eight hundred and ten.

Sec. 3. *And be it further enacted*, That John Calhoun be placed on the said pension list, at the rate of fifteen dollars per month, to commence on the sixth day of February, one thousand eight hundred and ten; and that Benjamin Blackburn be placed on the pension list, at the rate of five dollars per month, from the first day of April, one thousand eight hundred and ten.

Sec. 4. *And be it further enacted*, That there be paid, out of any moneys in the treasury not otherwise appropriated, to Abraham Gamble, of the State of Maryland, who was placed on the pension list from the eighteenth day of January, one thousand eight hundred and nine, the sum of fifty-three dollars and seventy-five cents, for arrears of pension from the twenty-fifth day of January, one thousand eight hundred and eight, when he first completed his testimony under an irregular commission, to the said eighteenth day of February, one thousand eight hundred and nine, being ten months and twenty-three days.

[43.]

[*Laws of the U. S., vol. 4, page 366.*]

CHAP. 334. An act authorizing the President of the United States to raise certain companies of rangers, for the protection of the frontier of the United States.

4. Officers, &c., raised pursuant to this act to be entitled to like compensation in case of disability, as officers and privates in the military establishment: The provisions of the act fixing the military peace establishment extended to persons within the intent and meaning of this act: This act to continue in force until the 2d August, 1813.

APPROVED, JANUARY 2, 1812.

SEC. 4. *And be it further enacted*, That the officers, non-commissioned officers, and privates, raised pursuant to this act, shall be entitled to the like compensation in case of disability, by wounds and otherwise, incurred in the service, as officers, non-commissioned officers, and privates, in the present military establishment, and with them shall be subject to the rules and articles of war, which have been established, or may hereafter by law be established; and the provisions of the act, entitled "An act fixing the military peace establishment of the United States,"* so far as they may be applicable, shall be extended to all persons, matters, and things, within the intent and meaning of this act, in the same manner as if they were inserted at large in the same. This act shall take effect, and be in force, from and after the passage thereof, and continue in force for one year, and from thence to the end of the next session of Congress.

[44.]

[*Laws of the U. S., vol. 4, page 367.*]

CHAP. 337. An act to raise an additional military force.

14. Officers, privates, &c., disabled by wounds, in service, to be placed on the list of invalid pensioners: The compensation for wounds to a commissioned officer not to exceed half their monthly pay, and no officer to receive more than the half pay of a lieutenant colonel: The rates of pensions to non-commissioned officers, privates, &c., not to exceed five dollars per month: Inferior disabilities to entitle the person to an allowance proportional. 15. Widows and children of commissioned officers dying of wounds received in actual service, to receive half the monthly pay to which the deceased was entitled, for five years: In case the widow marries before the expiration of the five years, the half pay to go to the children.

APPROVED, JANUARY 11, 1812.

SEC. 14. *And be it further enacted*, That if any officer, non-commissioned officer, musician, or private, shall be disabled by wounds, or otherwise, while in the line of his duty in public service, he shall be placed on the list of invalids of the United States, at such rate of pension, and under such regulations, as are or may be directed by law: *Provided, always*, That the compensation to be allowed for such wounds or disabilities, to a commis-

* See act of March 16, 1803, No. [30.]—ante.

sioned officer, shall not exceed, for the highest rate of disability, half the monthly pay of such officer, at the time of his being disabled or wounded; and that no officer shall receive more than the half pay of a lieutenant colonel; and that the rate of compensation to non-commissioned officers, musicians, and privates, shall not exceed five dollars per month: *And provided, also, That* all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

Sec. 15. *And be it further enacted,* That if any commissioned officer in the military establishment of the United States shall, while in the service of the United States, die by reason of any wound received in the actual service of the United States, and leave a widow, or if no widow, a child or children under sixteen years of age, such widow, or if no widow, such child or children, shall be entitled to and receive half the monthly pay to which the deceased was entitled at the time of his death, for and during the term of five years. But in case of the death or intermarriage of such widow before the expiration of the said term of five years, the half pay for the remainder of the time shall go to the child or children of such deceased officer: *Provided, always,* That such half pay shall cease on the decease of such child or children.

[45.]

[*Laws of the U. S., vol. 4, page 374.*]

CHAP. 344. An act authorizing the President of the United States to accept and organize certain volunteer military corps.

5. Officers, privates, &c., disabled by wounds in public service, to be placed on the list of invalid pensioners: The compensation allowed for wounds to a commissioned officer not to exceed half his monthly pay, and no officer to receive more than the half pay of a lieutenant colonel: The rate of pension to privates, &c., not to exceed five dollars per month: Proportionate allowance for inferior disabilities.

APPROVED, FEBRUARY 6, 1812.

Sec. 5. *And be it further enacted,* That if any officer, non-commissioned officer, musician, or private, shall be disabled by wounds, or otherwise, while in the line of his duty in public service, he shall be placed on the list of invalid pensioners of the United States, at such rate of pension, and under such regulations, as are, or may be, directed by law: *Provided, always,* That the compensation to be allowed for such wounds or disabilities to a commissioned officer shall not exceed, for the highest rate of disability, half the monthly pay of such officer, at the time of his being wounded or disabled; and that no officer shall receive more than the half pay of a lieutenant colonel: And that the rate of pension to non-commissioned officers, musicians, and privates, shall not exceed five dollars per month: *And provided, also,* That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

[46.]

[*Laws of the U. S., vol. 4, page 380.*]

CHAP. 351. An act for the relief of Captain Selah Benton.

1. Selah Benton, who served as a captain in the revolutionary war, to be placed on the pension list at the rate of twenty dollars per month. 2. This act to be in force from the 21st February, 1812.

APPROVED, FEBRUARY 21, 1812.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Selah Benton, who served as a captain in the American army in the revolutionary war, be placed on the pension list, and that there be paid to him, in the same manner that other pensions are paid, the sum of twenty dollars per month, to commence from the first day of July, one thousand eight hundred and eleven.

SEC. 2. *And be it further enacted,* That this act shall commence, and be in force, from and after the passage thereof.

[47.]

[*Laws of the U. S., vol. 4, page 405.*]

CHAP. 377. An act for the relief of the officers and soldiers who served in the late campaign on the Wabash.

1. The officers and soldiers of the volunteers and militia, and the legal representatives of those who were killed or died of their wounds in the army that served on the Wabash, to receive the same compensation as allowed to militia called into actual service. 2. The widows or children of the officers and soldiers who were killed or died of wounds received in service on the Wabash, to receive half the monthly pay to which the deceased was entitled, for five years: In case of the death or intermarriage of the widow, the half pay to go the children whilst under the age of sixteen years: No greater sum allowed, in any case, than the half pay of a lieutenant colonel. 3. Officers and privates who served on the Wabash, and disabled by known wounds, to be placed on the list of invalids, at such rate of pension as the President may direct, upon satisfactory proof: The rate of compensation for wounds not to exceed half the monthly pay of the officers; and to privates, not more than five dollars per month: Inferior disabilities in proportion: No pension to exceed half the pay of a lieutenant colonel.

APPROVED, APRIL 10, 1812.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the officers, according to the rank assigned them by governor Harrison, and which they held on the seventh day of November, one thousand eight hundred and eleven, the non-commissioned officers, and soldiers, of the volunteers and militia, and the legal representatives of those who were killed, or died of their wounds, composing the army that served in the late campaign on the Wabash against the hostile Indians, shall receive the same compensation which is allowed by law to the militia of the United States, when called into the actual service of the United States.

SEC. 2. *And be it further enacted,* That the officers, according to the rank which they held as aforesaid, the non-commissioned officers, and soldiers, of the volunteers or militia, who served in

the said campaign, and who were killed, or died of wounds received in said service, leaving a widow, or if no widow, shall have left a child or children, under the age of sixteen, such widow, or if no widow, such child or children, shall be entitled to, and receive, the half of the monthly pay to which the deceased was entitled at the time of his death, or receiving the wound of which he died, for and during the term of five years; and in case of the death or intermarriage of such widow, before the expiration of the term of five years, the half pay, for the remainder of the term, shall go to the child or children of such deceased officer or soldier, whilst under the age of sixteen years; and in like manner the allowance to the child or children of such deceased, where there is no widow, shall be paid no longer than while there is a child or children under the age aforesaid: *Provided*, That no greater sum shall be allowed in any case to the widow, or to the child or children, of any officer, than the half pay of a lieutenant colonel.

SEC. 3. *And be it further enacted*, That every officer, according to the rank which he held as aforesaid, non-commissioned officer, and private, of the volunteers and militia, who served in the said campaign, and who have been disabled by known wounds received in said service, shall be placed on the list of invalids of the United States, at such rate of pension as shall be directed by the President of the United States, upon satisfactory proof of such wound and disability being produced to the Secretary of War, agreeably to such rule as he may prescribe: *Provided*, That the rate of compensation for such wounds and disabilities shall never, for the highest disability, exceed half the monthly pay of such officer, at the time of being so wounded or disabled, and that the rate of compensation to a non-commissioned officer and private shall never exceed five dollars per month; and all inferior disabilities shall entitle the person so disabled to receive a sum in proportion to the highest disability; but no pension of a commissioned officer shall be calculated at a higher rate than the half pay of a lieutenant colonel.

[48.]

[*Laws of the U. S., vol. 4, page 421.*]

CHAP. 392. An act to revive and continue in force "An act to provide for persons who were disabled by known wounds received in the revolutionary war," and for other purposes.

1. The act to provide for persons who were disabled by known wounds received in the revolutionary war, revived and continued for six years. 2. Agents for the payment of invalid pensioners in future to give bond.

APPROVED, APRIL 25, 1812.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

the act, entitled "An act to provide for persons who were disabled by known wounds received in the revolutionary war," passed on the tenth of April, one thousand eight hundred and six,* shall be, and the same is hereby, revived, and continued in force for and during the space of six years from the passage of this act, and from thence to the end of the next session of Congress thereafter, and no longer.

SEC. 2. *And be it further enacted*, That the agents for the payment of invalid pensioners of the United States shall, in future, be required to give bond with two or more sureties, to be approved by the Secretary for the Department of War, in a sum not exceeding five thousand dollars, for the faithful discharge of the duties confided to them, respectively.

[49.]

[*Laws of the U. S., vol. 4, page 463.*]

CHAP. 445. An act concerning invalid pensioners.

1. Names of persons directed to be placed on the pension list according to the rates mentioned. 2. The pensions of the persons named to be increased as specified.

APPROVED, JULY 5, 1812.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, directed to place the following named persons on the pension list of invalid pensioners of the United States, who shall be entitled to, and receive, pensions, according to the rates, and commencing at the times, herein mentioned; that is to say:

Samuel Allen, at the rate of two dollars per month, to commence on the fifteenth of November, one thousand eight hundred and eleven.

Nehemiah Leavitt, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth of December, one thousand eight hundred and eleven.

William Powers, at the rate of two dollars and fifty cents per month, to commence on the seventh of January, one thousand eight hundred and twelve.

William Cushing, at the rate of ten dollars per month, to commence on the twenty-fifth of November, one thousand eight hundred and eleven.

William Leaver, alias Lavear, at the rate of two dollars and fifty cents per month, to commence on the sixth day of December, one thousand eight hundred and eleven.

Oliver Russell, at the rate of two dollars and fifty cents per month, to commence on the sixth day of April, one thousand eight hundred and eight.

* See act of that date, No. [35.]—ante.

Joel Fox, at the rate of two dollars and fifty cents per month, to commence on the twenty-seventh of February, one thousand eight hundred and eleven.

Isaac Durand, at the rate of two dollars and fifty cents per month, to commence on the thirty-first of August, one thousand eight hundred and eleven.

Aaron Peck, at the rate of three dollars thirty-three and one-third cents per month, to commence on the twentieth of May, one thousand eight hundred and eleven.

Hezekiah Bailey, at the rate of five dollars per month, to commence on the nineteenth of January, one thousand eight hundred and twelve.

Nathan Ford, at the rate of two dollars per month, to commence on the seventeenth of October, one thousand eight hundred and eleven.

Jonas Hobart, at the rate of two dollars and fifty cents per month, to commence on the sixteenth day of November, one thousand eight hundred and ten.

John Philips, at the rate of four dollars per month, to commence on the tenth day of July, one thousand eight hundred and eleven.

Elisha Fanning, at the rate of two dollars and fifty cents per month, to commence on the twenty-sixth of December, one thousand eight hundred and eleven.

Samuel Leonard, at the rate of two dollars and fifty cents per month, to commence on the ninth day of March, one thousand eight hundred and eleven.

Sylvester Tilton, at the rate of two dollars and fifty cents per month, to commence on the third of February, one thousand eight hundred and twelve.

Mahlon Ford, at the rate of twenty dollars per month, to commence on the seventh day of March, one thousand eight hundred and twelve.

Randolph Clarkson, at the rate of two dollars and fifty cents per month, to commence on the sixteenth day of March, one thousand eight hundred and twelve.

Stephen Carter, at the rate of three dollars and seventy-five cents per month, to commence on the sixteenth day of February, one thousand eight hundred and eleven.

George Pierson, at the rate of two dollars per month, to commence on the twenty-seventh of January, one thousand eight hundred and twelve.

Andrew Bartle, at the rate of two dollars and fifty cents per month, to commence on the twelfth day of October, one thousand eight hundred and eleven.

Philip Krugh, at the rate of two dollars and fifty cents per month, to commence on the ninth day of December, one thousand eight hundred and eleven.

Andrew Johnson, at the rate of five dollars per month, to commence on the fifteenth day of February, one thousand eight hundred and twelve.

John Harbeson, at the rate of three dollars thirty-three and one-third cents per month, to commence on the twenty-fifth of February, one thousand eight hundred and twelve.

Edward Leary, at the rate of five dollars per month, to commence on the first day of August, one thousand eight hundred and eleven.

Daniel M'Carty, at the rate of four dollars per month, to commence on the sixteenth of February, one thousand eight hundred and eleven.

Thomas Rogers, at the rate of two dollars and fifty cents per month, to commence on the fourth day of April, one thousand eight hundred and eleven.

Reuben Plunket, at the rate of two dollars and fifty cents per month, to commence on the seventh of June, one thousand eight hundred and eleven.

James Bridget, at the rate of two dollars and fifty cents per month, to commence on the seventh day of October, one thousand eight hundred and eleven.

Michael Reap, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of April, one thousand eight hundred and eleven.

Henry Weems, at the rate of five dollars per month, to commence on the fifteenth November, one thousand eight hundred and eleven.

Malcolm Keys, at the rate of four dollars per month, to commence on the fifteenth of November, one thousand eight hundred and eleven.

James Armstrong, at the rate of five dollars per month, to commence on the fifteenth of November, one thousand eight hundred and eleven.

John Martin, at the rate of two dollars and fifty cents per month, to commence on the fifteenth day of November, one thousand eight hundred and eleven.

Robert Elder, at the rate of three dollars thirty-three and one-third cents per month, to commence on the nineteenth of July, one thousand eight hundred and eleven.

Jasper Tomiton, at the rate of two dollars and fifty cents per month, to commence on the tenth day of December, one thousand eight hundred and eleven.

Robert Patterson, at the rate of twenty-five dollars per month, to commence on the twelfth of July, one thousand eight hundred and eleven.

Virgil Poe, at the rate of two dollars and fifty cents per month, to commence on the twenty-third of September, one thousand eight hundred and eleven.

John Jacobs, at the rate of five dollars per month, to commence on the fifth of July, one thousand eight hundred and eleven.

Thomas Hickman, at the rate of two dollars per month, to commence on the twelfth of January, one thousand eight hundred and twelve.

Joseph Shaw, at the rate of two dollars per month, to commence on the thirteenth January, one thousand eight hundred and twelve.

Joseph Todd, at the rate of two dollars per month, to commence on the fourteenth January, one thousand eight hundred and twelve.

Dennis Laughlan, at the rate of two dollars and fifty cents per month, to commence on the twenty-fourth August, one thousand eight hundred and eleven.

George Adams, at the rate of five dollars per month, to commence on the twenty-ninth January, one thousand eight hundred and twelve.

Samuel Newell, at the rate of eight dollars per month, to commence on the second of March, one thousand eight hundred and eleven.

Thomas Wyatt, at the rate of two dollars and fifty cents per month, to commence on the twenty-fourth of July, one thousand eight hundred and eleven.

Perry Floyd, at the rate of two dollars and fifty cents per month, to commence on the fifteenth of February, one thousand eight hundred and twelve.

John Kirk, at the rate of two dollars and fifty cents per month, to commence on the twenty-first of September, one thousand eight hundred and eleven.

James Crawford, at the rate of six dollars per month, to commence on the twelfth of September, one thousand eight hundred and eleven.

William Haile, at the rate of one dollar and sixty-six and two-thirds cents per month, to commence on the nineteenth of November, one thousand eight hundred and eleven.

Joseph Gilmore, at the rate of one dollar and seventy-five cents per month, to commence on the ninth day of October, one thousand eight hundred and ten.

Ethelred Cobb, at the rate of two dollars and fifty cents per month, to commence on the nineteenth November, one thousand eight hundred and eleven.

John Taylor, at the rate of three dollars and seventy-five cents per month, to commence on the twelfth of March, one thousand eight hundred and twelve.

John Reynolds, at the rate of three dollars per month, to commence on the thirteenth July, one thousand eight hundred and ten.

Henry M'Farlane, at the rate of two dollars per month, to commence on the eleventh February, one thousand eight hundred and nine.

John Elliot, at the rate of two dollars and fifty cents per month, to commence on the twenty-sixth December, one thousand eight hundred and eleven.

John Williams, at the rate of five dollars per month, to commence on the second March, one thousand eight hundred and twelve.

Thomas Scotland, at the rate of five dollars per month, to commence on the tenth December, one thousand eight hundred and ten.

Luke Guyant, at the rate of five dollars per month, to commence on the twenty-first September, one thousand eight hundred and nine.

Daniel Evans, at the rate of two dollars and fifty cents per month, to commence on the thirtieth March, one thousand eight hundred and twelve.

Daniel Rady, at the rate of two dollars and fifty cents per month, to commence on the sixteenth April, one thousand eight hundred and six.

John Jordan, at the rate of seven dollars and fifty cents per month, to commence on the fourteenth December, one thousand eight hundred and eleven.

Jacob Seay, at the rate of five dollars per month, to commence on the sixteenth day of October, one thousand eight hundred and eleven.

Amos Lewis, at the rate of two dollars and fifty cents per month, to commence on the twenty-ninth day of October, one thousand eight hundred and eleven.

Benjamin Fry, at the rate of five dollars per month, to commence on the seventeenth day of September, one thousand eight hundred and ten.

Benjamin Coddington, at the rate of two dollars and fifty cents per month, to commence on the twenty-fifth day of April, one thousand eight hundred and twelve.

John Johnson, at the rate of three dollars and fifty cents per month, to commence on the sixth day of January, one thousand eight hundred and twelve.

Patrick Coleman, at the rate of five dollars per month, to commence on the twelfth day of April, one thousand eight hundred and ten.

John Garner, at the rate of two dollars and fifty cents per month, to commence on the twenty-ninth day of February, one thousand eight hundred and twelve.

John Bair, at the rate of eight dollars per month, to commence on the eighth day of April, one thousand eight hundred and eleven.

SEC. 2. *And be it further enacted*, That the pensions of the following named persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act for that purpose,* be increased to the sums herein, respectively, annexed to their names; the said increase to commence at the times herein mentioned, and to be instead of the pensions they at present receive; that is to say:

Joshua Haynes, at the rate of four dollars per month, to commence on the sixteenth of March, one thousand eight hundred and eleven.

* See act of April 10th, 1806, No. [35].—*ante*.

Nathaniel Leavitt, at the rate of five dollars per month, to commence on the sixteenth of March, one thousand eight hundred and eleven.

Ebenezer Carlton, at the rate of five dollars per month, to commence on the thirteenth day of January, one thousand eight hundred and twelve.

Robert B. Wilkins, at the rate of five dollars per month, to commence on the twentieth day of January, one thousand eight hundred and eight.

James Crummet, at the rate of five dollars per month, to commence on the nineteenth day of February, one thousand eight hundred and twelve.

Jotham Nute, at the rate of five dollars per month, to commence on the eighth day of September, one thousand eight hundred and eight.

William Warren, at the rate of seven dollars and fifty cents per month, to commence on the fourth of November, one thousand eight hundred and eleven.

Jonathan Stevens, at the rate of two dollars and fifty cents per month, to commence on the seventh of February, one thousand eight hundred and eleven.

Luke Aldrich, at the rate of two dollars per month, to commence on the twenty-sixth of October, one thousand eight hundred and eleven.

Gustavus Aldrich, at the rate of five dollars per month, to commence on the sixteenth of December, one thousand eight hundred and eleven.

Levi Chadburn, at the rate of five dollars per month, to commence on the nineteenth day of March, one thousand eight hundred and twelve.

Stephen Barnum, at the rate of five dollars per month, to commence on the third of July, one thousand eight hundred and ten.

Gershom Donnan, at the rate of five dollars per month to commence on the third of July, one thousand eight hundred and ten.

Daniel Bouton, at the rate of fifteen dollars per month, to commence on the fourteenth of March, one thousand eight hundred and ten.

Israel Dibble, at the rate of three dollars per month, to commence on the twenty-second of June, one thousand eight hundred and eleven.

Heber Smith, at the rate of five dollars per month, to commence on the seventh of October, one thousand eight hundred and eleven.

Nathan Hawley, at the rate of four dollars per month, to commence on the twenty-second of August, one thousand eight hundred and eleven.

David Hurd, at the rate of five dollars per month, to commence on the seventh of October, one thousand eight hundred and eleven.

Amos Skeel, at the rate of five dollars per month, to commence on the twenty-first of June, one thousand eight hundred and eleven.

Moses Raymond, at the rate of five dollars per month, to commence on the eighth of November, one thousand eight hundred and eleven.

Isaac Buell, at the rate of three dollars and seventy-five cents per month, to commence on the fifteenth of November, one thousand eight hundred and eleven.

Ransford Avery Ferris, at the rate of five dollars per month, to commence on the second of March, one thousand eight hundred and twelve.

Azel Woodworth, at the rate of five dollars per month, to commence on the thirteenth of February, one thousand eight hundred and twelve.

Jonathan Woolley, at the rate of five dollars per month, to commence on the sixteenth day of May, one thousand eight hundred and nine.

Joseph Tyler, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Nehemiah Pierce, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Samuel Evers, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Oliver Darling, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Ebenezer M'Ilvein, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Daniel Russell, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Asa Gould, at the rate of five dollars per month, to commence on the sixteenth of May, one thousand eight hundred and nine.

William Hazleton, at the rate of five dollars per month, to commence on the twelfth day of May, one thousand eight hundred and nine.

Daniel Brown, at the rate of five dollars per month, to commence on the eleventh day of May, one thousand eight hundred and nine.

Amasa Grover, at the rate of two dollars per month, to commence on the sixteenth day of May, one thousand eight hundred and nine.

Joseph Huntoon, at the rate of thirteen dollars thirty-three and one-third cents per month, to commence the twenty-second of September, one thousand eight hundred and eight.

Philo Stoddard, at the rate of three dollars thirty-three and one-third cents per month, to commence on the seventh of October, one thousand eight hundred and eleven.

Daniel Staunton, at the rate of three dollars and seventy-five cents per month, to commence on the twelfth day of September, one thousand eight hundred and ten.

Elijah Knight, at the rate of five dollars per month, to commence on the first day of August, one thousand eight hundred and nine.

Nicholas Barth, alias Barrette, at the rate of eleven dollars and twenty-five cents per month, to commence on the twenty-fourth day of January, one thousand eight hundred and twelve.

Aaron Stiles, at the rate of five dollars per month, to commence on the sixteenth day of November, one thousand eight hundred and eleven.

Morris De Camp, at the rate of four dollars per month, to commence on the seventeenth of April, one thousand eight hundred and twelve.

Ambrose Lewis, at the rate of three dollars and seventy-five cents per month, to commence on the ninth of March, one thousand eight hundred and eleven.

[50.]

[*Laws of the U. S., vol. 4, page 491.*]

CHAP. 480. An act in addition to the act entitled " An act to raise an additional military force, and for other purposes."*

10. Disabled officers, musicians, and privates, to be placed on the list of invalids: The compensation for wounds, to a commissioned officer, not to exceed half the monthly pay; and no officer to receive more than the half pay of a lieutenant colonel: The rate to privates not to exceed five dollars per month: Inferior disabilities to be allowed in proportion. 11. Widows or children of commissioned officers dying from wounds received in actual service, entitled to half the monthly pay for five years: In case the widow dies or marries, the half pay to go to the children.

APPROVED, JANUARY 29, 1813.

SEC. 10. *And be it further enacted*, That if any officer, non-commissioned officer, musician, or private, shall be disabled, by wounds, or otherwise, while in the line of his duty in public service, he shall be placed on the list of invalids of the United States, at such rate of pension and under such regulations as are or may be directed by law: *Provided, always*, That the compensation to be allowed for such wounds or disabilities, to a commissioned officer, shall not exceed, for the highest rate of disability, half the monthly pay of such officer, at the time of his being disabled or wounded; and that no officer shall receive more than the half pay of a lieutenant colonel; and that the rate of compensation to non-commissioned officers, musicians, and privates, shall not exceed five dollars per month: *And provided, also*, That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

* See act of 11th January, 1812, No. [44.]—ante.

SEC. 11. *And be it further enacted*, That if any commissioned officer shall, while in the service of the United States, die, by reason of any wound received in actual service of the United States, and leave a widow, or, if no widow, a child or children, under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to and receive half the monthly pay to which the deceased was entitled at the time of his death, for and during the term of five years; but, in case of the death or intermarriage of such widow, before the expiration of the said term of five years, the half pay for the remainder of the time shall go to the child or children of such deceased officer: *Provided, always*, That such half pay shall cease on the decease of such child or children.

[51.]

[*Laws of the U. S., vol. 4, page 609.*]

CHAP. 566. An act concerning invalid pensioners.

1. The Secretary of War to place the persons named on the pension list according to the rates mentioned. 2. The pensions of the persons named, already on the pension list, to be increased as specified.

APPROVED, AUGUST 2, 1813.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he hereby is, directed to place the following named persons on the pension list of invalid pensioners of the United States, who shall be entitled to and receive pensions according to the rates, and commencing at the times herein mentioned; that is to say:

Benjamin Randall, at the rate of five dollars per month, to commence on the eleventh day of February, one thousand eight hundred and thirteen.

George Hill, at the rate of three dollars and twenty-five cents per month, to commence on the twenty-fifth of February, one thousand eight hundred and thirteen.

Leonard Clark, at the rate of five dollars per month, to commence on the eighteenth day of January, one thousand eight hundred and thirteen.

George Shannon, at the rate of eight dollars per month, to commence on the first day of January, one thousand eight hundred and thirteen.

Hezekiah Thorndike, at the rate of three dollars thirty-three and one-third cents per month, to commence on the first of May, one thousand eight hundred and twelve.

Benjamin Brockway, at the rate of two dollars and fifty cents per month, to commence on the eleventh of December, one thousand eight hundred and twelve.

Paul Bebee, at the rate of three dollars and seventy-five cents per month, to commence on the seventh of January, one thousand eight hundred and thirteen.

Zachariah Sherwood, at the rate of two dollars and fifty cents per month, to commence on the thirteenth of December, one thousand eight hundred and nine.

Braxton Carter, at the rate of three dollars per month, to commence on the first of January, one thousand eight hundred and thirteen.

Patrick Logan, at the rate of two dollars and fifty cents per month, to commence on the first of January, one thousand eight hundred and thirteen.

Joseph Davidson, at the rate of two dollars and fifty cents per month, to commence on the twenty-third of January, one thousand eight hundred and twelve.

John Jordan, at the rate of five dollars per month, to commence on the twenty-sixth day of August, one thousand eight hundred and twelve.

James Russel, at the rate of five dollars per month, to commence on the twenty-first day of November, one thousand eight hundred and twelve.

Nathaniel Henry, at the rate of fifteen dollars per month, to commence on the first day of January, one thousand eight hundred and thirteen.

Abraham Merryfield, at the rate of five dollars per month, to commence on the fifteenth day of February, one thousand eight hundred and thirteen.

Joshua Patrick, at the rate of two dollars and fifty cents per month, to commence on the first day of June, one thousand eight hundred and thirteen.

Jonathan Morris, at the rate of ten dollars per month, to commence on the fourteenth day of June, one thousand eight hundred and thirteen.

Samuel White, at the rate of two dollars and fifty cents per month, to commence on the twelfth day of April, one thousand eight hundred and thirteen.

Sec. 2. *And be it further enacted*, That the pensions of the following named persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act for that purpose,* be increased to the sums herein, respectively, annexed to their names; the said increase to commence at the times hereinafter mentioned, and to be instead of the pensions they now receive; that is to say:

Ebenezer Bean, at the rate of two dollars and fifty cents per month, to commence on the ninth of June, one thousand eight hundred and twelve.

Samuel Morrell, at the rate of three dollars and seventy-five cents per month, to commence on the eleventh of September, one thousand eight hundred and twelve.

Moses Trussel, at the rate of five dollars per month, to com-

* See act of 10th April, 1806, No. [35].—ante.

ence on the twenty-fifth of September, one thousand eight hundred and twelve.

Samuel le Count, at the rate of five dollars per month, to commence on the twentieth of November, one thousand eight hundred and twelve.

Josiah Jones, at the rate of five dollars per month, to commence on the twenty-fifth of January, one thousand eight hundred and thirteen.

Stephen Everts, at the rate of five dollars per month, to commence on the eighteenth of May, one thousand eight hundred and twelve.

Amazian Chappell, at the rate of three dollars and seventy-five cents per month, to commence on the seventh of February, one thousand eight hundred and eleven.

Samuel Stillman, at the rate of three dollars and seventy-five cents per month, to commence on the twenty-eighth of November, one thousand eight hundred and twelve.

Israel Dibble, at the rate of four dollars and fifty cents per month, to commence on the twelfth day of December, one thousand eight hundred and twelve.

Samuel Sawyer, at the rate of four dollars and fifty cents per month, to commence on the twelfth day of December, one thousand eight hundred and twelve.

Jacob Williams, at the rate of two dollars and a half per month, to commence on the eleventh day of January, one thousand eight hundred and thirteen.

Benjamin Tower, at the rate of five dollars per month, to commence on the twenty-seventh of January, one thousand eight hundred and thirteen.

John Talman, alias Tallman, at the rate of five dollars per month, to commence on the first of February, one thousand eight hundred and thirteen.

Younger Grady, at the rate of five dollars per month, to commence on the eighth day of June, one thousand eight hundred and eleven.

[52.]

[*Laws of the U. S., vol. 4, page 613.*]

CHAP. 568. An act to provide for the widows and orphans of militia slain, and for militia disabled, in the service of the United States.

1. The widows and children of commissioned officers in the militia or volunteers, dying of wounds received in actual service, entitled to half the monthly pay of the deceased for five years: In case the widow dies or marries, the half pay to go to the children: The half pay to cease on the death of the children. 2. Officers, privates, &c., of the militia or volunteers, disabled by known wounds received in actual service, to be placed on the list of invalids: The compensation of a commissioned officer not to exceed half his monthly pay, and no officer to receive more than the half pay of a lieutenant colonel: The rate to privates not to exceed five dollars per month: Inferior disabilities to receive an allowance proportionate. 3. The provisions of this act to have effect from the 18th

June, 1812. 4. The 6th sec. of the act authorizing the President to accept and organize certain volunteer corps, repealed.

APPROVED, AUGUST 2, 1813.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That if any commissioned officer of the militia, or of any volunteer corps, shall, while in the service of the United States, die by reason of any wound received in actual service of the United States, and leave a widow, or if no widow, a child or children, under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death, for and during the term of five years; but in case of the death or intermarriage of such widow, before the expiration of the said term of five years, the half pay, for the remainder of the time, shall go to the child or children of such deceased officer: *Provided, always,* That such half pay shall cease on the death of such child or children.

SEC. 2. *And be it further enacted,* That if any officer, non-commissioned officer, musician, or private, of the militia, or of any volunteer corps, shall be disabled by known wounds received in the actual service of the United States, while in the line of his duty, he shall, upon substantiating his claim, in the manner described by an act, entitled "An act to provide for persons who were disabled by known wounds received in the revolutionary war," passed the tenth day of April, one thousand eight hundred and six,* be placed on the list of invalids of the United States, at such rate of pension, and under such regulations, as are provided by the said act, or as may hereafter be provided by law: *Provided, always,* That the compensation to be allowed for such wounds or disabilities, to a commissioned officer, shall not exceed, for the highest rate of disability, half the monthly pay of such officer, at the time of his being wounded or disabled, and that no officer shall receive more than the half pay of a lieutenant colonel; and that the rate of compensation to non-commissioned officers, musicians, and privates, shall not exceed five dollars per month: *And provided, also,* That all inferior disabilities shall entitle the persons so disabled to receive an allowance proportionate to the highest disability.

SEC. 3. *And be it further enacted,* That the provisions of this act shall be construed to have effect from and after the eighteenth day of June, one thousand eight hundred and twelve.

SEC. 4. *And be it further enacted,* That the sixth section of an act, entitled "An act authorizing the President of the United States to accept and organize certain volunteer military corps," passed the sixth day of February, one thousand eight hundred and twelve,† be, and the same is hereby, repealed.

* See act of that date, No. [35.]—ante.

† See act of that date, No. [45.]—ante.

[53.]

[*Laws of the U. S., vol. 4, page 644.*]

CHAP. 597. An act authorizing the President of the United States to cause certain regiments therein mentioned to be enlisted for five years, or during the war.

2. Each man enlisted under this act allowed the same bounty as men enlisted for five years: Officers, privates, &c., to receive the same pay, clothing, &c., as other troops.

APPROVED, JANUARY 28, 1814.

SEC. 2. *And be it further enacted*, That each man enlisted under the authority of this act, shall be allowed the same bounty, in money and land, as is now by law allowed to men enlisted for five years or during the war; and that the officers, non-commissioned officers, musicians, and privates, shall receive the same pay, clothing, subsistence and forage, be entitled to the same benefits, be subject to the same rules and regulations, and be placed in every respect on the same footing, as the other regular troops of the United States.

[54.]

[*Laws of the U. S., vol. 4, page 693.*]

CHAP. 659. An act concerning invalid pensioners.

1. The Secretary of War directed to place the persons named on the pension list at the rates mentioned. 2. The pensions of the persons named to be increased as specified. 3. Depositions substantiating the facts necessary to entitle any person to be placed on the pension list, may be taken before a judge of any of the States or Territories.

APPROVED, APRIL 18, 1814.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, directed to place the following named persons, (whose claims have been transmitted to Congress, pursuant to a law passed tenth April, one thousand eight hundred and six,*) on the pension list of invalid pensioners, according to the rates, and to commence at the times, herein mentioned; that is to say:

Samuel C. Arickson, at the rate of five dollars per month, to commence on the tenth of June, one thousand eight hundred and thirteen.

Alexander Barr, at the rate of one dollar twenty-five cents per month, to commence on the twenty-ninth July, one thousand eight hundred and thirteen.

Ezra Bellows, at the rate of five dollars per month, to commence from twentieth June, one thousand eight hundred and twelve.

Daniel Dodd, at the rate of two dollars and fifty cents per month, to commence on the eighteenth of May, one thousand eight hundred and thirteen.

* See act of that date, No. [35.]—ante.

Joel Terrell, at the rate of three dollars thirty-three cents per month, to commence on the eighteenth December, one thousand eight hundred and thirteen.

George Dugan, at the rate of two dollars fifty cents per month, to commence on tenth February, one thousand eight hundred and fourteen.

Joseph King, at the rate of two dollars fifty cents per month, to commence on the nineteenth October, one thousand eight hundred and thirteen.

Andrew Green, at the rate of one dollar sixty-seven cents per month, to commence on the fourteenth day of October, one thousand eight hundred and thirteen.

Hugh Barns, at the rate of five dollars per month, to commence fifteenth June, one thousand eight hundred and thirteen.

Enoch Ducker, at the rate of five dollars per month, to commence on the second February, one thousand eight hundred and fourteen.

Samuel Hawkins, at the rate of three dollars and thirty-three cents per month, to commence on the fourth February, one thousand eight hundred and fourteen.

Darby Mars, at the rate of five dollars per month, to commence the twenty-fifth December, one thousand eight hundred and thirteen.

Benjamin Daniels, at the rate of twenty-five dollars per month, to commence on the twenty-second February, one thousand eight hundred and fourteen.

Robert M'Culloch, at the rate of two dollars fifty cents per month, to commence the fourteenth February, one thousand eight hundred and fourteen.

John Gilbert, at the rate of five dollars per month, to commence the thirtieth June, one thousand eight hundred and thirteen.

Henry Brenneman, at the rate of five dollars per month, to commence the fourth February, one thousand eight hundred and fourteen.

William Blanchard, at the rate of five dollars per month, to commence the thirteenth July, one thousand eight hundred and thirteen.

John Kersener, at the rate of three dollars thirty-three cents per month, to commence the first March, one thousand eight hundred and fourteen.

Robert Neil, at the rate of five dollars per month, to commence the fifth of March, one thousand eight hundred and fourteen.

John Berry, at the rate of five dollars per month, to commence the thirty-first March, one thousand eight hundred and fourteen.

Jonathan Willard, at the rate of ten dollars per month, to commence on March the seventh, one thousand eight hundred and fourteen.

Levi Bishop, of New York, at the rate of five dollars per month, to commence the twelfth of October, one thousand eight hundred and twelve.

John Fain, at the rate of four dollars per month, to commence on the tenth day of September, one thousand eight hundred and thirteen.

Sec. 2. *And be it further enacted*, That the pensions of the following named persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid, be increased to the sums herein, respectively, annexed to their names; the said increase to commence at the times herein mentioned; that is to say:

Benjamin Jenkins, five dollars per month, to commence on the sixteenth of February, one thousand eight hundred and fourteen.

Abner Rose, five dollars per month, to commence on the fourth of March, one thousand eight hundred and fourteen.

Richard Fairbrother, five dollars per month, to commence thirtieth September, one thousand eight hundred and thirteen.

Joseph Cutler, ten dollars per month, to commence on the twenty-eighth February, one thousand eight hundred and twelve.

Thomas Monday, five dollars per month, to commence on the thirtieth January, one thousand eight hundred and fourteen.

Hezekiah Bailey, ten dollars per month, to commence on the thirtieth December, one thousand eight hundred and thirteen.

Elisha Reynolds, three dollars thirty-three cents per month, to commence on the sixth April, one thousand eight hundred and twelve.

Sec. 3. *And be it further enacted*, That depositions, substantiating the facts necessary to entitle any person to be placed on the pension list, or to an increase of pension, may hereafter be taken before any judge of any of the courts of the State or Territory in which such person may reside, and the certificate of the clerk of the court, whereof the said judge is a member, shall be a sufficient authentication of his being such a judge.

[55.]

[*Laws of the U. S., vol. 4, page 825.*]

CHAP. 760. An act fixing the military peace establishment of the United States.

7. The several corps to be subject to the rules and articles of war; and the officers, privates, &c., to be entitled to the same provisions for wounds, benefits, allowances, &c., as authorized by the act mentioned.

APPROVED, MARCH 3, 1815.

Sec. 7. *And be it further enacted*, That the several corps authorized by this act shall be subject to the rules and articles of war, be recruited in the same manner, and with the same limitations; and that officers, non-commissioned officers, musicians, and privates, shall be entitled to the same provision for wounds and disabilities, the same provision for widows and children, and the same benefits and allowances in every respect, not inconsistent

with the provisions of this act, as are authorized by the act of sixteenth March, one thousand eight hundred and two, entitled "An act fixing the military peace establishment of the United States,"* and the act of the twelfth April, one thousand eight hundred and eight, entitled "An act to raise, for a limited time, an additional military force;"† and that the bounty to the recruit, and compensation to the recruiting officer, shall be the same as are allowed by the aforesaid act of the twelfth of April, one thousand eight hundred and eight.

[56.]

[*Laws of the U. S., vol. 4, page 826.*]

CHAP. 761. An act concerning invalid pensioners.

1. The Secretary of War directed to place the persons named on the pension list of invalid pensioners, according to the rates mentioned. 2. The pensions of the persons named to be increased as specified.

APPROVED, MARCH 3, 1815.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the Secretary of War be, and he is hereby, directed to place the following named persons, whose claims have been transmitted to Congress, pursuant to a law passed the tenth day of April, eighteen hundred and six,‡ on the pension list of invalid pensioners of the United States, according to the rates, and to commence at the times, herein mentioned; that is to say:

Robert Holberd, at the rate of five dollars per month, to commence on the thirtieth day of March, one thousand eight hundred and fourteen.

Eli Short, at the rate of three dollars and seventy-five cents per month, to commence on the thirtieth day of March, one thousand eight hundred and fourteen.

Spencer Darnell, at the rate of five dollars per month, to commence on the fourteenth day of February, eighteen hundred and fourteen.

Abraham Estes, at the rate of three dollars and seventy-five cents per month, to commence the seventeenth day of April, eighteen hundred and fourteen.

Willis Tandy, at the rate of one dollar and twenty-five cents per month, to commence the seventeenth day of April, eighteen hundred and fourteen.

Samuel Sharon, at the rate of two dollars and fifty cents per month, to commence the seventeenth day of August, eighteen hundred and fourteen.

* See act of March 16, 1802, No. [30.]—ante.

† See act of April 12, 1808, No. [37.]—ante.

‡ See act of that date, No. [35.]—ante.

Alexander Naismith, at the rate of two dollars and fifty cents per month, to commence the twentieth day of August, eighteen hundred and fourteen.

Isaac Gray, at the rate of six dollars and sixty-six cents per month, to commence the twenty-second day of September, eighteen hundred and fourteen.

Thomas Williams, at the rate of two dollars and fifty cents per month, to commence on the twenty-seventh day of July, eighteen hundred and fourteen.

John R. Rappleye, at the rate of five dollars per month, to commence the second day of September, eighteen hundred and fourteen.

John Sweeny, at the rate of seven dollars and fifty cents per month, to commence the seventeenth of March, eighteen hundred and fourteen.

Joshua Merrill, at the rate of two dollars and fifty cents per month, to commence the fourth of August, eighteen hundred and fourteen.

Grieve Drummond, at the rate of five dollars per month, to commence the twenty-eighth day of January, eighteen hundred and fifteen.

John Ward, at the rate of two dollars and fifty cents per month, to commence the thirtieth day of November, eighteen hundred and fourteen.

Charles Rumsey, at the rate of five dollars per month, to commence the twelfth day of July, eighteen hundred and fourteen.

Grant Taylor, at the rate of five dollars per month, to commence the twenty-fourth day of November, eighteen hundred and fourteen.

Henry Bateman, at the rate of five dollars per month, to commence the seventh day of March, eighteen hundred and fourteen.

John Norton, at the rate of two dollars and fifty cents per month, to commence the eleventh day of May, eighteen hundred and fourteen.

Jesse Young, at the rate of five dollars per month, to commence the sixth day of August, one thousand eight hundred and fourteen.

Daniel Averill, at the rate of two dollars and fifty cents per month, to commence the third day of January, eighteen hundred and fourteen.

John Bell, at the rate of ten dollars per month, to commence the ninth day of September, eighteen hundred and fourteen.

Minnie Ryneason, at the rate of two dollars and fifty cents per month, to commence the sixth day of January, eighteen hundred and fifteen.

William Bond, at the rate of five dollars per month, to commence the eighth day of December, eighteen hundred and fourteen.

Richard Osburn, at the rate of two dollars and fifty cents per month, to commence the fifth day of September, eighteen hundred and fourteen.

Julius Turner, at the rate of three dollars and seventy-five cents per month, to commence the eighteenth day of August, eighteen hundred and fourteen.

William Cook, at the rate of two dollars and fifty cents per month, to commence the eighteenth day of August, eighteen hundred and fourteen.

John Frazer, at the rate of three dollars and seventy-five cents per month, to commence the sixteenth day of November, eighteen hundred and fourteen.

Christopher Sites, at the rate of two dollars and fifty cents per month, to commence the seventeenth day of February, eighteen hundred and fifteen.

William Barton, at the rate of thirty dollars per month, to commence the first day of January, eighteen hundred and fifteen.

William Berry, at the rate of five dollars per month, to commence the thirty-first day of March, eighteen hundred and fourteen.

James M'Neal, at the rate of five dollars per month, to commence the thirteenth day of September, eighteen hundred and fourteen.

Emanuel Kent, junior, at the rate of five dollars per month, to commence the thirteenth day of September, eighteen hundred and fourteen.

Jeremiah Searcy, of South Carolina, at the rate of five dollars per month, to commence from the third of March, eighteen hundred and fifteen.

Sec. 2. *And be it further enacted*, That the pensions of the following persons, already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid, be increased to the sums herein, respectively, annexed to their names, the said increase to commence at the times herein mentioned; that is to say:

Charles Hunton, at the rate of two dollars and fifty cents per month, to commence the fourteenth day of November, eighteen hundred and fourteen.

Thomas Williams, at the rate of five dollars per month, to commence the twenty-ninth of October, eighteen hundred and fourteen.

Samuel White, at the rate of three dollars and seventy-five cents per month, to commence the twenty-eighth day of December, eighteen hundred and fourteen.

Thomas Machin, at the rate of twenty dollars per month, to commence the twenty-ninth day of October, eighteen hundred and fourteen.

John M'Clennon, at the rate of five dollars per month, to commence the third day of November, eighteen hundred and fourteen.

Richard Gressum, at the rate of five dollars per month, to commence the eighth day of November, eighteen hundred and fourteen.

[57.]

[*Laws of the U. S., vol. 6,* page 15.*]

CHAP. 17. An act to increase the pensions of Robert White, Jacob Wrighter, John Young, and John Crampersey.

1. Forty dollars per month to Robert White, from the 5th of March, 1815: Thirty dollars per month to Jacob Wrighter, from the 10th of May, 1815: Forty dollars per month to John Young, from the 30th of April, 1815: Forty dollars per month to John Crampersey, from the 15th of November, 1814: The Secretary of War to place them on the pension list.

APPROVED, FEBRUARY 22, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be, and hereby is, granted to Robert White, of Reading, in the State of Vermont, who, in defence of fort Erie, lost both his arms by a cannon shot, in lieu of the pension to which he is now entitled by law, a pension of forty dollars per month, to commence on the fifth day of March, one thousand eight hundred and fifteen; to Jacob Wrighter, of the city of Trenton, in the State of New Jersey, who lost his right arm and right leg at the capture of Little York, in Upper Canada, in lieu of the pension to which he is now entitled by law, a pension of thirty dollars per month, to commence on the tenth day of May, one thousand eight hundred and fifteen; to John Young, of the town of Boston, and State of Massachusetts, who lost both arms at French Creek, in descending the river St. Lawrence, by a cannon ball, in lieu of the pension to which he is now entitled by law, a pension of forty dollars per month, to commence from the thirtieth day of April, one thousand eight hundred and fifteen: and to John Crampersey, of the town of Beverly, and State of Massachusetts, who lost both arms in the late war with Great Britain, in lieu of the pension to which he is now entitled by law, a pension of forty dollars per month, to commence from the fifteenth day of November, one thousand eight hundred and fourteen; and the Secretary of War is hereby directed to place the said Robert White, Jacob Wrighter, John Young, and John Crampersey, on the pension list accordingly.

[58.]

[*Laws of the U. S., vol. 6, page 62.*]

CHAP. 55. An act making further provision for military services during the late war, and for other purposes.†

1. Widows and children of officers and private soldiers, who died in service during the war of 1812, or of wounds received while in service, to receive half pay for five years: If the widow dies or marries, the half pay goes to the children: Officers and privates of

* Vol. 5, of Duane's edition, consists of a general Index: Vol. 6, is the continuation of the Laws of the United States, by John B. Colvin.

† See amendatory act of 3d March, 1817—post.

militia disabled by wounds to be placed on the pension list like regulars: The provisions of this act not to extend to persons embraced by the act of 2d August, 1813. 2. The guardians of non-commissioned officers and soldiers who have been killed or died of wounds, may, within a year, relinquish the bounty land, and receive the half monthly pay for five years: Where a warrant has issued, the guardian may surrender it: Notice of surrender to the Secretary of the Treasury, who is to give orders for the half pay. 3. Soldiers who enlisted to serve for five years or during the war, above 45 or under 18, having faithfully served and been regularly discharged or been promoted, entitled to 160 or 320 acres, according to term of enlistment. 4. The President to cause 2,000,000 of acres additional to be surveyed and laid off for the purposes of this act. 5. No transfer of bounty land valid until after the issue and delivery of the patents to the persons entitled.

APPROVED, APRIL 16, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*, when any officer or private soldier of the militia, including rangers, sea fencibles, and volunteers, or any non-commissioned officer, musician, or private, enlisted for either of the terms of one year or eighteen months, or any commissioned officer of the regular army, shall have died while in the service of the United States, during the late war, or in returning to his place of residence, after being mustered out of service, or who shall have died at any time thereafter, in consequence of wounds received whilst in the service, and shall have left a widow, or, if no widow, a child or children, under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death, for and during the term of five years; and in case of death or intermarriage of such widow before the expiration of said five years, the half pay for the remainder of the time shall go to the child or children of said decedent: *Provided, always*, That the Secretary of War shall adopt such forms of evidence in applications under this act as the President of the United States may prescribe: *Provided, also*, That the officers and private soldiers of the militia, as aforesaid, who have been disabled by wounds or otherwise, while in the service of the United States, in discharge of their duty during the late war, shall be placed on the list of pensioners in the same manner as the officers and soldiers of the regular army, under such forms of evidence as the President of the United States may prescribe: *Provided, also*, That the provisions of this act shall not extend to any person embraced in the provision of the act, entitled "An act to provide for the widows and orphans of militia slain, and for militia disabled, in the service of the United States," passed the second day of August, one thousand eight hundred and thirteen.

SEC. 2. *And be it further enacted*, That when any non-commissioned officer, musician, or private soldier, of the regular army of the United States, shall have been killed in battle, or have died of wounds or disease, while in the service of the United States, during the late war, and have left a child or children under sixteen years of age, it shall be lawful for the guardian of such child or children, within one year from the passage of this

act,* to relinquish the bounty land to which such non-commissioned officer, musician, or private soldier, had he survived the war, would have been entitled; and, in lieu thereof, to receive half the monthly pay to which such deceased person was entitled at the time of his death, for and during the term of five years, to be computed from and after the seventeenth day of February, one thousand eight hundred and fifteen; the payment thereof to be made when and where other military pensions are or shall be paid; and where a warrant for the military bounty land aforesaid shall have been issued to or for the use of the child or children of any such deceased non-commissioned officer, musician, or private soldier, such child or children, or either of them, being under sixteen years of age, it shall be lawful for the guardian of such minor or minors, to surrender and deliver such warrant into the office for the Department of War, within one year from the passing of this act; of which surrender and delivery the Secretary of that Department shall give notice to the Secretary of the Treasury, who shall thereupon give the requisite orders for the payment of the half pay hereby provided for.

SEC. 3. *And be it further enacted*, That all soldiers who have been enlisted to serve for five years or during the war, and were above the age of forty-five, or under the age of eighteen years, who have faithfully served during the late war, and have been regularly discharged, and the representatives of such soldiers as shall have died whilst in the service of the United States, and all soldiers who have been enlisted, and have faithfully served during the late war, until they have been promoted to the rank of commissioned officers, who, if they had served during the war under their enlistment, and been regularly discharged, would have been entitled to a bounty in land, shall be entitled to one hundred and sixty or three hundred and twenty acres of land, according to the term of enlistment; the warrants and patents to issue in the same manner as in the case of soldiers enlisted of proper age, and discharged under similar circumstances.

SEC. 4. *And be it further enacted*, That, for the purpose of carrying the provisions of this act into effect, and other acts giving bounty lands to soldiers of the regular army, the President of the United States is hereby authorized to cause to be surveyed and laid off, in one or more surveys, two millions of acres, not otherwise appropriated, in addition to the appropriations of lands by the act of May the sixth, one thousand eight hundred and twelve, for designating, surveying, and granting, military bounty lands according to the provisions of said act.

SEC. 5. *And be it further enacted*, That no transfer of land, granted in virtue of this or any other law, giving bounties of land to the non-commissioned officers, musicians, and privates, enlisted during the late war, shall be valid, unless the contract or agreement therefor, or letter of attorney, giving power to sell or

* Time extended: See act of 3d March, 1819—post.

convey, shall have been executed after the patents shall be issued and delivered to the persons entitled thereto.

[59.]

[*Laws of the U. S., vol. 6, page 78.*]

CHAP. 68. An act to increase the pensions of invalids in certain cases; for the relief of invalids of the militia; and for the appointment of pension agents in those States where there is no commissioner of loans.

1. Persons of the ranks named, now on the pension roll, are to receive after the 24th of April, 1816, for the highest degree of disabilities, the sums mentioned: For less disabilities, proportionably less. 2. Persons hereafter placed on the military pension roll, to be put on at the rates specified in this act: Nothing herein to lessen a higher pension by special provision. 3. Officers and soldiers of the militia, whilst in service, to be placed on the pension roll as those of the regular army. 4. The Secretary of War required to appoint proper persons in the States and Territories, where there is no commissioner of loans, to perform the duties relating to pensions and pensioners.

APPROVED, APRIL 24, 1816.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* all persons of the rank hereinafter named, who are now on the military pension roll of the United States, shall, from and after the passage of this act, be entitled to, and receive, for disabilities of the highest degree, the following sums, in lieu of those to which they are now entitled, to wit: a first lieutenant, seventeen dollars; a second lieutenant, fifteen dollars; a third lieutenant, fourteen dollars; an ensign, thirteen dollars; and a non-commissioned officer, musician, or private, eight dollars per month: and for disabilities of a degree less than the highest, a sum proportionably less.

Sec. 2. *And be it further enacted, That* all persons of the aforesaid ranks, who may hereafter be placed on the military pension roll of the United States, shall, according to their ranks and degrees of disabilities, be placed on at the aforesaid rates of pensions, in lieu of those heretofore established: *Provided, That* nothing herein contained shall be construed to lessen the pension of any person who, by special provision, is entitled to a higher pension than is herein provided.

Sec. 3. *And be it further enacted, That* all laws and regulations, relating to the admission of the officers and soldiers of the regular army to be placed on the pension roll of the United States, shall, and they are hereby declared to, relate equally to the officers and soldiers of the militia, whilst in the service of the United States.

Sec. 4. *And be it further enacted, That* the Secretary for the Department of War be, and he is hereby, authorized and required to appoint some fit and proper person in those States and Territories where there is no commissioner of loans, and also in the district of Maine, to perform the duties in those States and Terri-

tories, and in said district, respectively, relating to pensions and pensioners, which are now required of said commissioners in their respective States.

[60.]

[*Laws of the U. S., vol. 6, page 128.*]

CHAP. 144. An act for the relief of Elizabeth Hamilton.

1. Accounting officers of the treasury to allow the widow of A. Hamilton, deceased, five years' full pay, for the services of her husband as a lieutenant colonel, out of any moneys in the treasury.

APPROVED, APRIL 29, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the Treasury be, and they are hereby, required to settle the account of Elizabeth Hamilton, widow and representative of Alexander Hamilton, deceased, and to allow her five years' full pay for the services of her deceased husband, as a lieutenant colonel in the revolutionary war, which five years' full pay is the commutation of his half pay for life; to be paid out of any moneys in the Treasury not otherwise appropriated.

[61.]

[*Laws of the U. S., vol. 6, page 145.*]

CHAP. 167. An act concerning invalid pensioners.

1. The Secretary of War to place the persons named on the pension list at the rates and from the times specified. 2. The pensions of the persons named, already on the pension list, to be increased as specified: Nothing in this act to be construed to allow pensioners any other pension than herein provided, or any higher rate than heretofore, for any time previous to the passage of the act mentioned.

APPROVED, APRIL 30, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, directed to place the following named persons on the pension list of invalid pensioners of the United States, who shall be entitled to, and receive, pensions according to the rates, and commencing at the times, herein mentioned, that is to say:

John Huie, at the rate of twenty dollars per month, to commence on the twenty-seventh of December, eighteen hundred and fifteen.

Erastus Desbrow, at the rate of six dollars per month, to commence on the eighteenth November, eighteen hundred and fifteen.

John B. Williams, at the rate of six dollars per month, to commence on the twelfth of September, eighteen hundred and fifteen.

Ptolemy Sheldon, at the rate of eight dollars per month, to commence on the ninth of June, eighteen hundred and fifteen.

Humphrey Webster, at the rate of seventeen dollars per month, to commence on the first of June, eighteen hundred and fifteen.

Asa Glazier, at the rate of four dollars per month, to commence on the twenty-sixth of January, eighteen hundred and sixteen.

Joseph Westcott, at the rate of six dollars and sixty-seven cents per month, to commence on the sixth of January, eighteen hundred and sixteen.

Alston Fort, at the rate of eight dollars per month, to commence on the sixteenth of September, eighteen hundred and fourteen.

Luther Gregory, at the rate of four dollars per month, to commence on the twenty-second of February, eighteen hundred and sixteen.

Henry Parks, at the rate of eight dollars per month, to commence on the twenty-second of February, eighteen hundred and sixteen.

Lemuel Hewlit, at the rate of four dollars per month, to commence on the twelfth of January, eighteen hundred and sixteen.

Peter Mills, at the rate of eight dollars per month, to commence on the fifth January, eighteen hundred and thirteen.

Bethuel Goodrich, junior, at the rate of four dollars per month, to commence on the eighteenth of November, eighteen hundred and fifteen.

William Vineyard, at the rate of four dollars per month, to commence on the second of November, eighteen hundred and fifteen.

Aaron Stewart, at the rate of four dollars per month, to commence on the fourth of October, eighteen hundred and fifteen.

Michael M'Dermott, at the rate of eight dollars per month, to commence on the twenty-fifth of March, eighteen hundred and fourteen.

William Bowyer, at the rate of eight dollars per month, to commence on the tenth of October, eighteen hundred and fifteen.

Samuel Jacaway, at the rate of four dollars per month, to commence on the ninth of January, eighteen hundred and fourteen.

Joseph S. Vandriesen, at the rate of eight dollars per month, to commence on the fourth of March, eighteen hundred and thirteen.

Jacob Kendelsperyer, at the rate of four dollars per month, to commence on the seventeenth of November, eighteen hundred and fourteen.

Thomas Fugate, at the rate of eight dollars per month, to commence on the twenty-first of May, eighteen hundred and fourteen.

Cornelius Williams, at the rate of four dollars per month, to commence on the eighteenth day of December, eighteen hundred and fifteen.

John B. Fuller, at the rate of eight dollars per month, to commence on the twenty-eighth of November, eighteen hundred and fifteen.

Michael Chapu, at the rate of four dollars per month, to commence on the fifth of February, eighteen hundred and sixteen.

Joseph Henderson, at the rate of eight dollars and fifty cents per month, to commence on the twenty-fourth of December, eighteen hundred and fourteen.

John Pidgeon, at the rate of four dollars per month, to commence on the eighth of February, eighteen hundred and fifteen.

George Fitzsimmons, at the rate of four dollars per month, to commence on the first of June, eighteen hundred and fifteen.

Jesse Beach, at the rate of twenty dollars per month, to commence on the third of January, eighteen hundred and sixteen.

Daniel Stagg, at the rate of eight dollars per month, to commence on the twenty-sixth of February, eighteen hundred and sixteen.

Daniel Bailey, at the rate of four dollars per month, to commence on the eighteenth of December, eighteen hundred and fifteen.

Calvin Barnes, at the rate of four dollars per month, to commence on the fourteenth of February, eighteen hundred and sixteen.

Noble Morse, at the rate of eight dollars per month, to commence on the thirty-first of October, eighteen hundred and fifteen.

David M'Cracken, junior, at the rate of eight dollars per month, to commence on the ninth of February, eighteen hundred and sixteen.

John Patterson, at the rate of four dollars per month, to commence on the twenty-ninth of December, eighteen hundred and fifteen.

Thomas Baldwin, at the rate of eight dollars per month, to commence on the sixth of June, eighteen hundred and fifteen.

Zenas Hastings, at the rate of eight dollars per month, to commence on the twenty-ninth of November, eighteen hundred and fifteen.

James Nowell, at the rate of eight dollars per month, to commence on the fifth of April, eighteen hundred and eleven.

Charles Hagin, at the rate of eight dollars per month, to commence on the eighth of November, eighteen hundred and fifteen.

Joseph Foster, at the rate of eight dollars per month, to commence on the tenth of October, eighteen hundred and fifteen.

Levie Frisbie, at the rate of eight dollars per month, to commence on the ninth of November, eighteen hundred and fifteen.

Joseph Gillet, at the rate of seventeen dollars per month, to commence on the eighteenth of April, eighteen hundred and fifteen.

Samuel Truby, at the rate of eight dollars per month, to commence on the ninth of September, eighteen hundred and fifteen.

David Hawkins, at the rate of eight dollars per month, to commence on the seventeenth of November, eighteen hundred and fifteen.

Philip Ulmer, at the rate of fifteen dollars per month, to commence on the twenty-second of January, eighteen hundred and sixteen.

John Hamilton, at the rate of ten dollars per month, to commence on the fifth day of February, eighteen hundred and fifteen.

Nathaniel Thompson, at the rate of four dollars per month, to commence on the sixteenth of June, eighteen hundred and fifteen.

John Downs, at the rate of four dollars per month, to commence on the twenty-second of March, eighteen hundred and sixteen.

John Fenton, at the rate of four dollars per month, to commence on the sixth of February, eighteen hundred and sixteen.

William Collins, at the rate of four dollars per month, to commence on the eighteenth day of January, one thousand eight hundred and sixteen.

James Allen, at the rate of four dollars per month, to commence on the third of May, one thousand eight hundred and fifteen.

William Richardson, at the rate of four dollars per month, to commence on the twelfth of April, one thousand eight hundred and fifteen.

James Devourix, at the rate of eight dollars per month, to commence on the eighth of July, one thousand eight hundred and fifteen.

James Guthrie, at the rate of four dollars per month, to commence on the twenty-seventh of September, one thousand eight hundred and fifteen.

Nathaniel Clark, at the rate of six dollars per month, to commence on the twentieth of February, one thousand eight hundred and fifteen.

John Haskell, at the rate of eight dollars per month, to commence on the eleventh of December, one thousand eight hundred and fifteen.

James Nourse, at the rate of four dollars per month, to commence on the seventeenth of November, one thousand eight hundred and fifteen.

John M'Nulty, at the rate of eight dollars per month, to commence on the twelfth of June, one thousand eight hundred and fifteen.

Joseph Kerr, at the rate of four dollars per month, to commence on the twenty-third of October, one thousand eight hundred and fifteen.

Stephen M. Conger, at the rate of four dollars per month, to commence on the seventeenth of October, one thousand eight hundred and fifteen.

Socrates Swift, at the rate of eight dollars per month, to commence on the eighteenth of March, one thousand eight hundred and fifteen.

Nathan Lockwood, at the rate of four dollars per month, to commence on the first of December, one thousand eight hundred and fifteen.

Samuel Gurnee, at the rate of eight dollars per month, to commence on the sixth of March, one thousand eight hundred and sixteen.

Emory Lowman, at the rate of eight dollars per month, to commence on the sixteenth of June, one thousand eight hundred and fifteen.

John M'Millan, at the rate of fifteen dollars per month, to commence on the twenty-third of August, one thousand eight hundred and fifteen.

Reuben Goolsby, at the rate of four dollars per month, to commence on the first of April, one thousand eight hundred and sixteen.

William Rhodes, at the rate of four dollars per month, to commence on the third of November, one thousand eight hundred and fourteen.

Daniel Ruminer, at the rate of six dollars per month, to commence on the fourth of July, one thousand eight hundred and fifteen.

Beverly Williams, at the rate of twenty dollars per month, to commence on the twenty-fourth of September, one thousand eight hundred and fifteen.

James Shaw, at the rate of eight dollars per month, to commence on the fifth of September, one thousand eight hundred and fifteen.

Edmund Borum, at the rate of eight dollars per month, to commence on the twenty-first of August, one thousand eight hundred and fifteen.

Matthew Williams, at the rate of six dollars per month, to commence on the eleventh of July, one thousand eight hundred and fifteen.

William L. Sypert, at the rate of four dollars per month, to commence on the twenty-fourth of August, one thousand eight hundred and fifteen.

Samuel Scott, at the rate of eight dollars per month, to commence on the twenty-seventh of May, one thousand eight hundred and fifteen.

David Hubbard, at the rate of four dollars per month, to commence on the seventeenth of June, one thousand eight hundred and fifteen.

Hugh Hays, at the rate of four dollars per month, to commence on the fourth of July, one thousand eight hundred and fifteen.

William Dennie, at the rate of six dollars per month, to commence on the sixteenth of September, one thousand eight hundred and fifteen.

John Bruce, at the rate of six dollars per month, to commence on the sixteenth of September, one thousand eight hundred and fifteen.

George Sleeker, at the rate of six dollars per month, to commence on the twenty-third of August, one thousand eight hundred and fifteen.

Robert C. Davis, at the rate of six dollars per month, to commence on the fifteenth of September, one thousand eight hundred and fifteen.

Bracket Davison, at the rate of six dollars per month, to commence on the seventeenth of December, one thousand eight hundred and fifteen.

W. I. Shumate, at the rate of fourteen dollars per month, to commence on the twenty-seventh of July, one thousand eight hundred and fifteen.

Alexander M. Gray, at the rate of eight dollars per month, to commence on the twenty-seventh of July, one thousand eight hundred and fifteen.

John Patterson, at the rate of four dollars per month, to commence on the eighteenth September, one thousand eight hundred and fifteen.

Paul Bonnel, at the rate of four dollars per month, to commence on the twenty-ninth of January, one thousand eight hundred and sixteen.

Daniel Hannah, at the rate of four dollars per month, to commence on the twenty-eighth of February, one thousand eight hundred and sixteen.

Joshua Mercer, at the rate of four dollars per month, to commence on the twenty-seventh of March, one thousand eight hundred and sixteen.

Samuel Schoonover, at the rate of eight dollars per month, to commence on the eighteenth of March, one thousand eight hundred and sixteen.

Alston Cook, at the rate of eight dollars per month, to commence on the twenty-sixth of October, one thousand eight hundred and fourteen.

John Chittim, at the rate of six dollars per month, to commence on the first of January, one thousand eight hundred and fifteen.

Abraham Johnson, at the rate of five dollars and thirty-three cents and one-third of a cent per month, to commence on the eleventh of February, one thousand eight hundred and sixteen.

Thomas Gadd, at the rate of four dollars per month, to commence on the eleventh of July, one thousand eight hundred and fourteen.

William O'Neal, at the rate of four dollars per month, to commence on the fifteenth day of February, one thousand eight hundred and sixteen.

Thomas Edmondson, at the rate of four dollars per month, to commence on the twenty-seventh day of May, one thousand eight hundred and fifteen.

Josiah B. Pachard, at the rate of eight dollars per month, to commence on the twenty-second day of January, one thousand eight hundred and sixteen.

John Q. Talbotts, at the rate of four dollars per month, to commence the fifth day of April, one thousand eight hundred and fifteen.

James Jackson, at the rate of four dollars per month, to commence on the twenty-first of August, one thousand eight hundred and fifteen.

Jean Du Peron, at the rate of eight dollars per month, to commence on the twenty-eighth of December, one thousand eight hundred and fourteen.

John Lamb, at the rate of eight dollars per month, to commence on the first of April, one thousand eight hundred and sixteen.

SEC. 2. *And be it further enacted*, That the pensions of the following named persons, already placed on the pension list of the United States, be increased to the sums herein, respectively, annexed to their names; the said increase to commence at the times herein mentioned, and to be in lieu of the pensions they at present receive; that is to say:

Nero Hawley, at the rate of eight dollars per month, to commence on the thirtieth of October, one thousand eight hundred and fifteen.

Nathan Hawley, at the rate of eight dollars per month, to commence on the thirtieth of October, one thousand eight hundred and fifteen.

James Porter, at the rate of four dollars per month, to commence on the twenty-second of January, one thousand eight hundred and sixteen.

John Durell, at the rate of eight dollars per month, to commence on the twenty-ninth of June, one thousand eight hundred and fifteen.

James White, at the rate of eight dollars per month, to commence on the twenty-seventh of May, one thousand eight hundred and fifteen.

David Scott, at the rate of twenty dollars per month, to commence on the eighteenth of May, one thousand eight hundred and fourteen.

Hugh Barnes, at the rate of twenty dollars per month, to commence on the fourth of March, one thousand eight hundred and sixteen.

Edmund Stevenson, at the rate of eight dollars per month, to commence on the first of April, one thousand eight hundred and sixteen: *Provided*, That nothing in this act shall be so construed as to allow any pensioners any other pension than is herein provided; or any higher rate of pension than has heretofore been allowed to him, or to others similarly situated, for any time previous to the passage of an act, entitled "An act to increase pensions of invalids in certain cases, for the relief of invalids of the militia, and for the appointment of pension agents in those States where there are no commissioners of loans."*

[62.]

[*Laws of the U. S., vol. 6, page 216.*]

CHAP. 237. An act concerning invalid pensioners.

1. The Secretary of War directed to place the persons named on the pension list of invalid pensioners, according to the rates mentioned. 2. The pensions of the persons named to be increased as specified.

APPROVED, MARCH 3, 1817.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

* See act of 24th April, 1816, No. [59].—ante.

the Secretary of War be, and he is hereby, directed to place the following named persons on the pension list of invalid pensioners of the United States, who shall be entitled to, and receive, pensions according to the rates, and commencing at the times, hereinafter mentioned; that is to say:

Johnson Cook, at the rate of four dollars per month, to commence on the twenty-seventh of November, one thousand eight hundred and sixteen.

Joseph Wilkinson, at the of eight dollars per month, to commence on the twenty-third of December, one thousand eight hundred and sixteen.

William Maxwell, at the rate of four dollars per month, to commence on the eighth of October, one thousand eight hundred and sixteen.

Elihu Lester, at the rate of eight dollars per month, to commence on the fifth of November, one thousand eight hundred and sixteen.

Daniel Collomy, at the rate of four dollars per month, to commence on the first of August, one thousand eight hundred and sixteen.

Benjamin Haile, at the rate of four dollars per month, to commence on the fifth of December, one thousand eight hundred and fifteen.

John Haney, at the rate of four dollars per month, to commence on the fifteenth of October, one thousand eight hundred and sixteen.

Uriah Warren, at the rate of four dollars per month, to commence on the fifth of December, one thousand eight hundred and sixteen.

Jonathan D. Carrier, at the rate of four dollars per month, to commence on the twenty-eight of February, one thousand eight hundred and sixteen.

John Myers, at the rate of five dollars thirty-three and a third cents per month, to commence on the fifteenth of November, one thousand eight hundred and sixteen.

James Newberry, at the rate of four dollars per month, to commence on the nineteenth of April, one thousand eight hundred and sixteen.

William Arnold, at the rate of four dollars per month, to commence on the twenty-third of October, one thousand eight hundred and sixteen.

R. J. Lowry, at the rate of eight dollars and fifty cents per month, to commence on the eleventh of February, one thousand eight hundred and sixteen.

Jesse M'Annally, at the rate of eight dollars per month, to commence on the eighteenth of July, one thousand eight hundred and fourteen.

Apheus Hill, at the rate of eight dollars per month, to commence on the first of January, one thousand eight hundred and sixteen.

Leroy Jones, at the rate of five dollars and thirty-two cents per month, to commence on the fifth of November, one thousand eight hundred and sixteen.

William Wilson, at the rate of four dollars per month, to commence on the fifth of November, one thousand eight hundred and sixteen.

John M'Clure, at the rate of four dollars per month, to commence on the tenth of September, one thousand eight hundred and sixteen.

Robert Warrel, at the rate of eight dollars per month, to commence on the ninth of September, one thousand eight hundred and sixteen.

William Carter, at the rate of five dollars thirty-three cents per month, to commence on the seventh of October, one thousand eight hundred and sixteen.

William English, at the rate of eight dollars per month, to commence on the ninth of September, one thousand eight hundred and sixteen.

Henry Doherty, at the rate of four dollars per month, to commence on the seventh of October, one thousand eight hundred and sixteen.

George Hendrick, at the rate of four dollars per month, to commence on the seventh of October, one thousand eight hundred and sixteen.

John Hinkson, at the rate of four dollars per month, to commence on the twentieth of September, one thousand eight hundred and sixteen.

Jeptha Brown, at the rate of four dollars per month, to commence on the fourteenth of December, one thousand eight hundred and sixteen.

John Miller, at the rate of eight dollars per month, to commence on the second of January, one thousand eight hundred and seventeen.

Aaron Stafford, at the rate of five dollars thirty-three cents per month, to commence on the eight of January, one thousand eight hundred and seventeen.

Elias Ware, at the rate of four dollars per month, to commence on the sixteenth of January, one thousand eight hundred and seventeen.

Daniel Moffett, at the rate of four dollars per month, to commence on the twenty-fifth of August, one thousand eight hundred and fifteen.

Frederick P. Stevenson, at the rate of eight dollars and fifty cents per month, to commence on the sixth of January, one thousand eight hundred and seventeen.

Sion Holly, at the rate of five dollars and thirty-three cents per month, to commence on the twenty-eight of February, one thousand eight hundred and sixteen.

Robert Lyon, at the rate of four dollars per month, to commence on the eighth of November, one thousand eight hundred and fifteen.

Henry Turner, at the rate of five dollars and thirty-three cents per month, to commence on the seventh of December, one thousand eight hundred and sixteen.

Mark Miller, at the rate of four dollars per month, to commence on the sixteenth day of December, one thousand eight hundred and fifteen.

George G. Gretten, at the rate of two dollars and sixty-six cents per month, to commence on the first day of February, one thousand eight hundred and seventeen.

Glover Baker, at the rate of two dollars per month, to commence on the twenty-ninth of October, one thousand eight hundred and sixteen.

Nathan Crosby, at the rate of four dollars per month, to commence on the fourteenth of February, one thousand eight hundred and seventeen.

James Heard, at the rate of eight dollars and fifty cents per month, to commence on the twentieth of February, one thousand eight hundred and seventeen.

Joshua Penny, at the rate of six dollars per month, to commence on the twentieth day of February, one thousand eight hundred and seventeen.

Enoch Barnum, at the rate of eight dollars per month, to commence on the first day of January, one thousand eight hundred and seventeen.

Malyne Baker, at the rate of four dollars per month, to commence on the first day of January, one thousand eight hundred and seventeen.

Reuben Thacker, at the rate of four dollars per month, to commence on the first day of January, one thousand eight hundred and seventeen.

SEC. 2. *And be it further enacted*, That the pensions of the following named persons, already placed on the pension list of the United States, be increased to the sums herein respectively annexed to their names; the said increase to commence at the times herein mentioned, and be in lieu of pensions they at present receive; that is to say:

Nicholas Welsh, at the rate of twenty-five dollars per month, to commence on the thirteenth day of June, one thousand eight hundred and fifteen.

George Shannon, at the rate of twelve dollars per month, commencing on the eleventh of September, one thousand eight hundred and sixteen.

[63.]

[*Laws of the U. S., vol. 6, page 235.*]

CHAP. 270. An act for the relief of the widow and children of Abraham Owen.

1. The benefits of the 2d sec. of the act for the relief of the officers and soldiers who served in the campaign on the Wabash, extended to the widow and children of Abraham

Owen. 2. Allowance to be paid to the widow and children out of money in the treasury not appropriated.

APPROVED, MARCH 3, 1917.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the widow and children of Abraham Owen, late a volunteer aid-de-camp of General William H. Harrison, shall be entitled to all the benefits of the second section of an act of Congress, approved the tenth day of April, one thousand eight hundred and twelve, entitled "An act for the relief of the officers and soldiers who served in the late campaign on the Wabash;"* and that they be allowed the same sum of money to which they would have been entitled had the rank of major been regularly assigned to the said Abraham Owen.

SEC. 2. *And be it further enacted, That* the said allowance be paid to the said widow and children, according to the provisions of the said act, out of any money in the Treasury not otherwise appropriated.

[64.]

[*Laws of the U. S., vol. 6, page 241.*]

CHAP. 280. An act to amend an act, entitled "An act making further provision for military services during the late war, and for other purposes."

1. Widows and children of soldiers of militia, volunteers, rangers, and sea-fencibles, placed on an equality: Rate of annual allowance. 2. Provisions of the act fixing the military peace establishment, of 3d March, 1815, concerning additional pay, extended to wagon-masters, &c. 3. Further time to guardians for relinquishment of bounty lands. 4. Widows and children of non-commissioned officers of the rangers placed on equality with those of infantry. 5. Provisions of the 2d section of the act of 16th April, 1816, extended: Proviso; as to assent of other heirs. 6. Relinquishment of title to bounty land entitles children of regular soldiers to four dollars per month.

APPROVED, MARCH 3, 1817.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the widows and children of soldiers of the militia, the volunteers, the rangers, and the sea-fencibles, who served during the late war, and for whom half pay for five years was provided, by an act passed on the sixteenth day of April, one thousand eight hundred and sixteen, entitled "An act making further provision for military services during the late war, and for other purposes,"† shall be placed on an equality as to their annual allowance, that is to say: Such widows, and in case of no widow, such children, as may be embraced in the before-recited act, shall be entitled to receive, (as the half pay to which they are entitled,) at the rate of forty-eight dollars per annum, and no more; and the widows

* See act of that date, No. [47.]—ante.

† See act of that date, No. [58.]—ante.

and children aforesaid, of the officers of the different corps aforesaid, shall be entitled to the half pay of the officers of the infantry.

SEC. 2. *And be it further enacted*, That the provisions contained in an act, entitled "An act fixing the military peace establishment of the United States," * passed on the third of March, one thousand eight hundred and fifteen, granting to the commissioned officers of the regular army, who were deranged by said act, three months' pay in addition to the pay and emoluments to which they were entitled by law at the time of their discharge, shall equally extend to wagon-masters, forage-masters, barrack-masters, and other warrant officers of the staff of the regular army, who were deranged by the before-recited act, except those provisionally retained by the President of the United States.

SEC. 3. *And be it further enacted*, That the further time of two years shall be allowed to the guardians of the minor children of deceased soldiers to relinquish their claims to bounty lands for five years' half pay, according to the second section of the before-recited act, to which this is a supplement, passed the sixteenth day of April, one thousand eight hundred and sixteen.†

SEC. 4. *And be it further enacted*, That the widows and children of the non-commissioned officers of the rangers shall be placed on the same footing as to half pay, for five years, with the widows and children of the infantry.

SEC. 5. *And be it further enacted*, That the provisions of the second section of the act to which this is a supplement shall be, and the same are hereby, extended to all cases where either of the children therein mentioned shall have been under sixteen years of age at the time of the father's decease: *Provided*, The guardian of such minor children shall, in addition to the relinquishment by the said act required, file, in the office of the Department of War, evidence of the assent of all the other heirs, if any there be, of said deceased soldier, or of their guardians, to such relinquishment.

SEC. 6. *And be it further enacted*, That in all cases where the child or children of a regular soldier, deceased, have the right, under the laws of the United States, to relinquish their bounty in land for five years' half pay, the said child or children shall be entitled to the same amount as is given by the act to the widows of the militia soldiers who died in service during the late war, viz: four dollars per month.

* See act of that date, No. [55.]—ante.

† See act of March 3, 1819—post.

[65.]

[*Laws of the U. S., vol. 6, page 263.*]

CHAP. 305. An act to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war.*

1. Officers and privates who served in the army or navy during the revolutionary war, entitled to pensions: Officers, twenty dollars per month; non-commissioned officers, &c., eight dollars per month: Claims to previous pensions to be relinquished. 2. A declaration under oath, and other evidence, necessary to the obtaining the benefit of this act: Testimony to be transmitted to the Secretary of War: Payment to be made as in case of other pensions. 3. Pensions to commence on the day of oath. 4. Sale, transfer, or mortgage of pension not valid: False swearing punishable as perjury.

APPROVED, MARCH 18, 1788.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That every commissioned officer, non-commissioned officer, musician, and private soldier, and all officers in the hospital department and medical staff, who served in the war of the revolution until the end thereof, or for the term of nine months, or longer, at any period of the war, on the continental establishment; and every commissioned officer, non-commissioned officer, mariner, or marine, who served at the same time, and for a like term, in the naval service of the United States, who is yet a resident citizen of the United States, and who is, or hereafter, by reason of his reduced circumstances in life, shall be in need of assistance from his country for support, and shall have substantiated his claim to a pension in the manner hereinafter directed, shall receive a pension from the United States: if an officer, of twenty dollars per month during life; if a non-commissioned officer, musician, mariner, marine, or private soldier, of eight dollars per month during life: *Provided*, No person shall be entitled to the provisions of this act until he shall have relinquished his claim to every pension heretofore allowed him by the laws of the United States.

Sec. 2. *And be it further enacted*, That, to entitle any person to the provisions of this act, he shall make a declaration, under oath or affirmation, before the district judge of the United States of the district, or before any judge or court of record of the county, State, or Territory in which the applicant shall reside, setting forth, if he belonged to the army, the company, regiment, and line to which he belonged; the time he entered the service, and the time and manner of leaving the service; and, in case he belonged to the navy, a like declaration, setting forth the name of the vessel and particular service in which he was employed, and the time and manner of leaving the service, and shall offer such other evidence as may be in his power; and on its appearing, to the satisfaction of the said judge, that the applicant served in the revolutionary war as aforesaid, against the common enemy, he shall certify and transmit the testimony in the case, and

* See additional act of 1st May, 1820: No. [75].—post.

the proceedings had thereon, to the Secretary for the Department of War, whose duty it shall be, if satisfied the applicant comes under the provisions of this act, to place such officer, musician, mariner, marine, or soldier, on the pension list of the United States, to be paid in the same manner as pensions to invalids who have been placed on the pension list are now paid, and under such restrictions and regulations, in all respects, as are prescribed by law.

SEC. 3. *And be it further enacted*, That every pension, by virtue of this act, shall commence on the day that the declaration under oath or affirmation, prescribed in the foregoing section, shall be made.

SEC. 4. *And be it further enacted*, That, from and after the passage of this act, no sale, transfer, or mortgage, of the whole, or any part, of the pension payable in pursuance of this act, shall be valid; and any person who shall swear or affirm falsely in the premises, and be thereof convicted, shall suffer as for wilful and corrupt perjury.

[66.]

[*Laws of the U. S., vol. 6, page 338.*]

CHAP. 383. An act to increase the pay of the militia while in the actual service, and for other purposes.

1. The pay of militia called into the service of the United States against the Seminole Indians, to be the highest allowed by law during the late war. 2. Widows and orphans of militia called into service against the Seminole Indians entitled to half pay and pensions.

APPROVED, APRIL 20, 1818.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the monthly pay of the militia which have been called into the service of the United States since the first day of September, eighteen hundred and seventeen, or which hereafter may be called into the said service, in prosecuting the war against the Seminole tribe of Indians, shall be the highest allowed by law to the militia in the service of the United States during the late war with Great Britain.

SEC. 2. *Be it further enacted*, That the widows and orphans of the militia who have been called into service of the United States since the first day of September, eighteen hundred and seventeen, or who hereafter may be called into the said service, in prosecuting said war, and who may have died or been killed, or hereafter may die or be killed, in such service, shall be entitled to the same half pay, for five years, and pensions allowed by the laws now in force to the widows and orphans of the militia who died or were killed in the service of the United States during the late war with Great Britain.

[67.]

[*Laws of the U. S., vol. 6, page 363.*]

CHAP. 418. An act for the relief of Major General John Stark.

1. The Secretary of War to place Gen. John Stark on the pension list, at sixty dollars per month, from 16th August, 1817. 2. Pension payable at the treasury, or as other pensions.

APPROVED, DECEMBER 28, 1818.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary for the War Department be, and he is hereby, directed to place upon the list of invalid pensioners of the United States Major General John Stark, at the rate of sixty dollars a month, to commence on the sixteenth day of August, one thousand eight hundred and seventeen.

SEC. 2. *And be it further enacted*, That the pension aforesaid shall be paid at the treasury of the United States, or in the same manner as invalid pensioners are paid who have heretofore been placed on the list of pensioners, at the option of said pensioner.

[68.]

[*Laws of the U. S., vol. 6, page 397.*]

CHAP. 465. An act for the relief of Phebe Stuart.

1. The Secretary of War to place Phebe Stuart on the pension list.

APPROVED, MARCH 3, 1819.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, directed to place on the pension list Phebe Stuart, widow of James Stuart, deceased, under the provisions of an act passed the sixteenth day of April, one thousand eight hundred and sixteen, making provision for the widows and orphans of the militia who had died in the service of the United States.

[69.]

[*Laws of the U. S., vol. 6, page 401.*]

CHAP. 479. An act for the relief of Hannah Ring and others.

1. The Secretary of War authorized to place Jonathan Ring on the pension list: The receipt of Hannah Ring, his wife, sufficient. 2. John Frink to be also placed on the pension list: His son's receipt sufficient. 3. Abraham Edwards to be placed on the pension list: His son's receipt sufficient. 4. Thomas Lucas to be placed on the pension list: His wife's or guardian's receipt sufficient.

APPROVED, MARCH 3, 1819.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

the act to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war, passed the eighteenth day of March, eighteen hundred and eighteen, shall be construed to authorize the Secretary of War to place on the pension list Jonathan Ring, a soldier of the revolutionary war, now insane, of the date of the eleventh day of July, eighteen hundred and eighteen; and that the receipt of the said Hannah Ring, his wife, during his insanity, shall be sufficient for the pension allowed by the said act.

SEC. 2. *And be it further enacted*, That the said act shall be also construed to authorize the Secretary of War to place on the pension list John Frink, a soldier in the revolutionary war, now insane, of the first day of May, eighteen hundred and eighteen; and that the receipt of Luther Frink, his son, shall be sufficient for the pension allowed by the said act.

SEC. 3. *And be it further enacted*, That the said act shall be also construed to authorize the Secretary of War to place on the pension list Abraham Edwards, a mariner in the revolutionary war, now insane, of the date of the first of July, eighteen hundred and eighteen; and the receipt of Joseph Edwards, his son, shall [be] sufficient for the pension allowed by this act.

SEC. 4. *And be it further enacted*, That the said act shall be also construed to authorize the Secretary of War to place on the pension list Thomas Lucas, a soldier in the revolutionary war, now insane, of the date of the fourteenth of January, eighteen hundred and nineteen; and that the receipt of the wife of the said Thomas Lucas, or his guardian, shall be sufficient for the pension allowed by this act.

[70.]

[*Laws of the U. S., vol. 6, page 414.*]

CHAP. 491. An act regulating the payments to invalid pensioners.

1. In applications for payments of pensions, the affidavit of two credible surgeons stating the continuance and rate of disability to accompany the application for payment falling due after the 4th March, 1820, and every two years thereafter: Affidavit not necessary in case of total disability: This act not to extend to invalids under the act of 18th March, 1818.

APPROVED, MARCH 3, 1819.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in all cases of application for the payment of pensions to invalids, under the several laws of Congress granting pensions to invalids, the affidavits of two surgeons or physicians, whose credibility, as such, shall be certified by the magistrate before whom the affidavit is made, stating the continuance of the disability for which the pension was originally granted, (describing it,) and the rate of such disability at the time of making the affidavit, shall accom-

pany the application of [for] the first payment which shall fall due after the fourth day of March next, and at the end of every two years thereafter; and if, in a case of a continued disability, it shall be stated at a rate below that for which the pension was originally granted, the applicant shall only be paid at the rate stated in the affidavit: *Provided*, That where the pension shall have been originally granted for a total disability, in consequence of the loss of a limb, or other cause, which cannot, either in whole or in part, be removed, the above affidavit shall not be necessary to entitle the applicant to payment: *And provided, also*, That this act shall not extend to the invalids of the revolution, who have been, or shall be, placed on the pension list, pursuant to an act of Congress, entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war," approved the eighteenth day of March, one thousand eight hundred and eight* [eighteen.]

[71.]

[*Laws of the U. S., vol. 6, page 422.*]

CHAP. 501. An act to authorize the Secretary of War to appoint an additional agent for paying pensioners of the United States in the State of Tennessee.

1. The Secretary of War to appoint an additional agent to pay pensioners in East Tennessee.

APPROVED, MARCH 3, 1819.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the passing of this act, the Secretary for the Department of War be, and he is hereby, authorized to appoint an agent, in addition to the one already appointed in the State of Tennessee, under the act of the twenty-fourth of April, one thousand eight hundred and sixteen,† for the purpose of paying pensioners of the United States, residing in East Tennessee; whose duties shall be, in all respects, similar to those appointed under the aforementioned act.

[72.]

[*Laws of the U. S., vol. 6, page 426.*]

CHAP. 504. An act concerning the allowance of pensions upon a relinquishment of bounty lands.

1. The 2d section of the act of 16th April, 1816, continued in force until 3d March, 1822: The children, or one of them, must, to obtain the pension, be under sixteen: Pension to commence at date of relinquishment.

APPROVED, MARCH 3, 1819.

* So in the original: It should be eighteen.

† See act of April 24, 1816, No. [59.]—ante.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second section of the act making further provision for military services during the late war, and for other purposes, approved April sixteenth, one thousand eight hundred and sixteen,* and so much of the act to amend the same, approved March third, one thousand eight hundred and seventeen,† as relates to the subject of that section, shall be continued in force for the term of three years from and after the passing of this act: Provided, nevertheless, That no pension shall be granted under the said acts, after the sixteenth day of April next, unless, at the time of relinquishing the bounty land, in the manner therein described, the children, for whose benefit the same may be granted, or one of them, shall be under sixteen years of age: And provided, also, That the pensions shall commence at the date of the relinquishments respectively.*

[73.]

[*Laws of the U. S., vol. 6, page 428.*]

CHAP. 509. An act concerning invalid pensions.

1. The Secretary of War to place the persons named on the pension list. 2. Pensions increased to the persons named. 3. Officers, soldiers, &c., who served in the revolutionary war, on availing themselves of the act of 18th March, 1818, not entitled to pensions under this or other future acts. 4. Persons entitled by the acts mentioned, may be placed on the pension list without report.

APPROVED, MARCH 3, 1819.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, directed to place the following named persons on the pension list of invalid pensioners of the United States, who shall be entitled to and receive pensions, according to the rates, and commencing at the times, hereinafter mentioned; that is to say:*

Benijah Abro, at the rate of four dollars per month, to commence on the eleventh of October, one thousand eight hundred and seventeen.

Robert Craighead, at the rate of four dollars per month, to commence on the thirty-first of January, one thousand eight hundred and eighteen.

Solomon Van Ransallaer, at the rate of thirty dollars per month, to commence on the thirteenth day of October, in eighteen hundred and twelve, and the sum of two thousand five hundred and eighty dollars, the amount of pension to him at the rate of twenty dollars per month, commencing on the thirtieth of January, one thousand eight hundred and two, and ending on the

* See act of April 16th, 1816, No. [58.]—ante.

† See act of March 3d, 1817, No. [64.]—ante.

thirteenth of October, one thousand eight hundred and twelve, in consequence of wounds received while serving as a captain of dragoons under General Wayne, in a battle with the Indians, on the twentieth of August, one thousand seven hundred and ninety-four.

Thomas Bailey, at the rate of eight dollars per month, to commence on the ninth December, one thousand eight hundred and seventeen.

Benjamin Pincin, at the rate of eight dollars per month, to commence on the seventeenth of March, one thousand eight hundred and eighteen.

Caleb J. Whaley, at the rate of six dollars and fifty cents per month, to commence on the thirtieth of December, one thousand eight hundred and thirteen.

William Earnest, whose father died of wounds received in battle during the late war, to be applied, under the direction of the Secretary for the Department of War, in the education of the said William, at the Connecticut asylum for the education and instruction of the deaf and dumb persons, for a period not exceeding five years, at the rate of two hundred and fifty dollars per annum.

John Low, at the rate of eight dollars per month, to commence on the twentieth day of January, one thousand eight hundred and seventeen.

Jeremiah Burnham, at the rate of eight dollars per month, to commence on the twentieth day of January, one thousand eight hundred and seventeen.

John Sargent, of Vermont, at the rate of four dollars per month, to commence on the sixth day of March, one thousand eight hundred and eighteen.

Peter Francisco, of Virginia, at the rate of eight dollars a month, to commence on the first day of January, one thousand eight hundred and nineteen.

SEC. 2. *And be it further enacted*, That the pensions of the following named persons, already placed on the pension list of the United States, be increased to the sums herein respectively annexed to their names; the said increase to commence at the time hereinafter mentioned, and be in lieu of pensions they at present receive; that is to say:

Benjamin Merrill, at the rate of eight dollars per month, to commence on the twenty-eighth of November, one thousand eight hundred and seventeen.

Timothy Mix, at the rate of eight dollars per month, to commence on the eighteenth of April, one thousand eight hundred and seventeen.

William Lackin, at the rate of six dollars per month, to commence on the eighteenth of February, one thousand eight hundred and seventeen.

John Wright, at the rate of six dollars per month, to commence on the fourth of February, one thousand eight hundred and eighteen.

Samuel Key Kendall, at the rate of twenty dollars per month, to commence on the tenth day of March, one thousand eight hundred and eighteen.

James Campbell, at the rate of six dollars per month, to commence on the thirtieth of September, one thousand eight hundred and seventeen.

Philip Krugh, at the rate of eight dollars per month, to commence on the fifth of June, one thousand eight hundred and seventeen.

George Pierson, at the rate of eight dollars per month, to commence on the tenth of September, one thousand eight hundred and seventeen.

John Long, at the rate of eight dollars per month, to commence on the twenty-eighth of February, one thousand eight hundred and seventeen.

Thomas M'Barney, at the rate of eight dollars per month, to commence on the twelfth of September, one thousand eight hundred and seventeen.

William Simpson, at the rate of eight dollars per month, to commence on the fifth of September, one thousand eight hundred and seventeen.

James C. Wingard, at the rate of eight dollars per month, to commence on the thirtieth of November, one thousand eight hundred and sixteen.

William Arnold, at the rate of seven dollars and fifty cents per month, to commence on the first day of April, one thousand eight hundred and eighteen.

Joseph S. Van Driesen, at the rate of twenty dollars per month, to commence on the tenth day of January, one thousand eight hundred and eighteen.

John Tilton, at the rate of thirteen dollars per month, to commence on the thirtieth day of January, one thousand eight hundred and eighteen.

Joseph Westcott, at the rate of twenty dollars per month, to commence on the twentieth day of October, one thousand eight hundred and seventeen.

Aaron Stafford, at the rate of ten dollars per month, to commence on the twentieth day of February, one thousand eight hundred and eighteen.

SEC. 3. *And be it further enacted*, That any pension granted by this act, or any act hereafter to be passed, to any officer, soldier, or marine who served in the revolutionary war, shall cease and be discontinued, in case the individual to whom the same may be granted hath availed himself, or shall hereafter avail himself, of the provisions of an act, passed the eighteenth day of March, one thousand eight hundred and eighteen, entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war."*

* See act of that date, No. [635.],—ante.

SEC. 4. *And be it further enacted*, That all persons entitled to pensions, in conformity with the provision of the act, entitled "An act to provide for persons disabled by known wounds during the revolutionary war,"* passed April eighteenth, eighteen hundred and six, and also, the fourth section of an act, entitled "An act concerning invalid pensioners,"† passed the twenty-fifth of April, one thousand eight hundred and eight, may be placed on the pension list by the Secretary of War, without reporting the same to Congress.

[74.]

[*Laws of the U. S., vol. 6, page 481.*]

CHAP. 561. An act making appropriations for the military service of the United States, for the year one thousand eight hundred and twenty.‡

APPROVED, MARCH 3, 1819.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, respectively appropriated:

For the annual allowance to the invalid pensioners of the United States, in addition to an unexpended balance of eighty-four thousand nine hundred and eighty-two dollars twenty-nine cents, three hundred and forty-one thousand eight hundred and sixty-two dollars and seventy-one cents.

For the annual allowance to the revolutionary pensioners, under the act of the eighteenth of March, one thousand eight hundred and eighteen, two millions seven hundred and sixty-six thousand four hundred and forty dollars.

[75.]

[*Laws of the U. S., vol. 6, page 490.*]

CHAP. 569. An act in addition to an act, entitled "An act to provide for certain persons engaged in the land and naval services of the United States in the revolutionary war," passed the eighteenth day of March, one thousand eight hundred and eighteen.

1. No person to receive a pension after payment of that due on the 4th March, 1820, unless he exhibits a schedule of his whole estate and income, clothing and bedding ex-

* It was passed the 10th and not the 18th April: See No. [35.]—ante.

† See act of that date, No. [45.]—ante.

‡ Appropriations for the payment of pensioners, previous to this date, commencing with the acts of the 1st session of Congress in 1789, were made as items in the acts of general "appropriation for the support of government" for the current year, and continued to be so appropriated from year to year. At this date, these appropriations were introduced into the acts "making appropriations for the military service of the United States" from year to year, until 1821, when they were made in a separate bill, but enti-

cepted: Oath or affirmation to be taken and subscribed: Form of the oath: A certified copy of schedule and oath, and opinion of the court, to be delivered to the Secretary of War: In case of insanity or incapacity, the schedule may be received by the court without oath. 2. Original schedule to be filed in the office of the clerk of the court: Persons swearing falsely to suffer as for perjury. 3. The Secretary of War may strike from the pension list the names of persons who, in his opinion, are not in indigent circumstances: Persons who relinquished pensions to avail themselves of the act of 18th March, 1818, and stricken from the list under this section, may be restored to pensions relinquished.

APPROVED, MAY 1, 1820.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, no person who now is, or hereafter may be, placed on the pension list of the United States, by virtue of the act, entitled "An act to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war,"* passed on the eighteenth day of March, one thousand eight hundred and eighteen, shall, after the payment of that part of the pension which became due on the fourth day of March, one thousand eight hundred and twenty, continue to receive the pension granted by the said act, until he shall have exhibited to some court of record, in the county, city, or borough, in which he resides, a schedule, subscribed by him, containing his whole estate and income, (his necessary clothing and bedding excepted,) and shall have (before the said court, or some one of the judges thereof,) taken and subscribed, and produced to the said court, the following oath or affirmation, to wit: I, A. B. do solemnly swear, or affirm, (as the case may be,) that I was a resident citizen of the United States on the eighteenth day of March, one thousand eight hundred and eighteen, and that I have not, since that time, by gift, sale, or in any manner whatever, disposed of my property, or any part thereof, with intent thereby so to diminish it as to bring myself within the provisions of an act of Congress, entitled "An act to provide for certain persons engaged in the land and naval service of the United in the revolutionary war," passed on the eighteenth day of March, one thousand eight hundred and eighteen; and that I have not, nor has any person in trust for me, any property, or securities, contracts, or debts, due to me; nor have I any income, other than what is contained in the schedule hereto annexed and by me subscribed: Nor until such person shall have delivered, or caused to be delivered, to the Secretary of War, a copy of the aforesaid schedule and oath or affirmation, certified by the clerk of the court to which the said schedule was delivered,

tled "a partial appropriation for the *military service* of the United States." The next year they resumed their connexion with the other appropriations "*for the military service*," which legislative arrangement was continued till 1826: and thereafter it became the settled policy, as those appropriations had become very large, to make them in separate bills, with items designating the different classes of pensions, as may be seen by the act of 29th January, 1827, (post,) and the subsequent acts making these appropriations. The great caution of Congress, however, in making specific appropriations for these objects, has been most improvidently departed from, unawares, of course, in the case of the navy pension fund, which has led to great abuse in the drafts made upon it, unforeseen by Congress—in relation to which some remarks will be found in the introduction.

* See act of 18th March, 1818, No. [65.]—ante.

together with the opinion of the said court, also certified by their clerk, of the value of the property contained in the said schedule: *Provided*, That, in every case in which the pensioner may be insane, or incapable of taking an oath, the court may receive the said schedule, without the aforesaid oath or affirmation, from the committee, or other person authorized to take care of such person.

SEC. 2. *And be it further enacted*, That the original schedule and oath or affirmation shall be filed in the clerk's office of the court to which the schedule and oath or affirmation aforesaid shall be exhibited; and any person who shall swear or affirm falsely in the premises, and be thereof convicted, shall suffer as for wilful and corrupt perjury.

SEC. 3. *And be it further enacted*, That, on the receipt of the copy of the schedule and oath or affirmation aforesaid, it shall be the duty of the Secretary of the War Department to cause to be struck from the list of pensioners under the said act, the name of such person, in case the said person shall not, in his opinion, be in such indigent circumstances as to be unable to support himself without the assistance of his country: *Provided*, That every person who shall have been placed on the pension list in consequence of disability from wounds received in the revolutionary war, and who shall have relinquished such pension in order to avail themselves of the benefit of the provisions of the act to which this is an amendment, who, by virtue of this section, may be stricken from the pension list, shall be forthwith restored to the pension so relinquished.

[76.]

[*Laws of the U. S., vol. 6, page 525.*]

CHAP. 627. An act to revive and continue in force an act, entitled "An act to provide for persons who were disabled by known wounds received in the revolutionary war, and for other purposes."

1. The act of 10th April, 1806, revived and continued until 15th May, 1821: This act not to make void the 4th section of the act of 3d March, 1819. 2. The right to receive a pension to commence at the time of completing the testimony. 3. Agents for paying pensions to give bond in not exceeding five thousand dollars.

APPROVED, MAY 20, 1820.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act, entitled "An act to provide for persons who were disabled by known wounds received in the revolutionary war,"* passed on the tenth of April, one thousand eight hundred and six, and limited, as in said act declared, to the term of six years, and afterwards revived and continued in force by an act entitled "An [act] to revive and continue in force 'An act to provide for

* See act of that date, No. [35.]—ante.

persons who were disabled by known wounds received in the revolutionary war,' and for other purposes,"* for and during the term of six years, as in the said act is declared, shall be, and the same is hereby, revived, and is continued in force for one year, and no longer, from the passing of this act: *Provided*, That this act shall not be construed to repeal or make void the fourth section of an act entitled "An act concerning invalid pensions,"† passed the third of March, one thousand eight hundred and nineteen; but the said fourth section of the said last mentioned act shall be, and hereby is declared to be in full force and effect, any thing in the said act hereby revived and made perpetual to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That the right any person now has, or may hereafter acquire, to receive a pension in virtue of any law of the United States, be considered to commence at the time of completing his testimony, pursuant to the act hereby revived and continued in force.

SEC. 3. *And be it further enacted*, That the agents for the payment of invalid pensioners of the United States shall, in future, be required to give bond, with two or more sureties, to be approved by the Secretary for the Department of War, in a sum not exceeding five thousand dollars, for the faithful discharge of the duties confided to them respectively.

[77.]

[*Laws of the U. S.*, vol. 7, ‡ page 10.]

CHAP. 6. An act to revive and continue in force an act entitled "An act to provide for persons who were disabled by known wounds received in the revolutionary war."

1. The act of 10th April, 1806, revived and continued until 4th February, 1828: Evidence taken in support of claims under the act of 15th May, 1820, to be received and acted upon by the Secretary of War: The 4th section of the act of 3d March, 1819, not to be construed as repealed or void. 2. Pensioners to commence at the time of completing testimony. 3. Pension agents to give bonds, with two or more sureties, in such penalty as the Secretary of War may direct.

APPROVED, FEBRUARY 4, 1822.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act entitled "An act to provide for persons who were disabled by known wounds received in the revolutionary war,"§ passed on the tenth day of April, one thousand eight hundred and six, and limited, as in said act declared, to the term of six years, and afterwards revived and continued in force for and during the term of six years, by an act entitled "An act to revive and con-

* See act of 25th April, 1812, No. [48.]

† See act of that date, No. [73.]

‡ This volume is a continuation of the laws, from the 4th of March, 1821, to the 4th of March, 1827, inclusive, published by William A. Davis, of Washington.

§ See act of that date, No. [35.]

tinue in force 'An act to provide for persons who were disabled by known wounds received in the revolutionary war,' and for other purposes,"* passed on the 25th day of April, in the year one thousand eight hundred and twelve, and afterwards revived and continued in force for the term of one year, by an act entitled "An act to revive and continue in force an act entitled 'An act to provide for persons who were disabled by known wounds received in the revolutionary war,'"† passed on the fifteenth day of May, in the year one thousand eight hundred and twenty, shall be, and the said act is hereby, revived and continued in full force and effect, for and during the term of six years from and after the passing of this act, and from thence unto the end of the next session of Congress: *Provided*, That any evidence which has been taken to support any claim of any person disabled in the revolutionary war, under the authority of the act of the fifteenth of May, one thousand eight hundred and twenty, reviving and continuing in force for one year, "An act to provide for persons who were disabled by known wounds received in the revolutionary war," shall be received and acted upon by the Secretary of War, in the same manner as if said act was still in force and had not expired: *And provided, also*, That this act, and any thing contained in the act hereby revived and continued in force, shall not be construed to repeal or make void the fourth section of an act entitled "An act concerning invalid pensions,"‡ passed the third of March, one thousand eight hundred and nineteen; and the said fourth section of the said last mentioned act shall be, and the same is hereby declared to be, and to continue to be, in full force and effect; any thing in the said act hereby revived and continued in force to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That the right any person now has, or hereafter may acquire, to receive a pension in virtue of any law of the United States, shall be construed to commence at the time of completing his testimony pursuant to the act hereby revived and continued in force.

SEC. 3. *And be it further enacted*, That the agents for the payment of pensions to invalid pensioners of the United States, shall, in future, be required to give bonds, with two or more sureties, to be approved by the Secretary of the Department of War, in such penalty as he shall direct, for the faithful discharge of the duties confided to them respectively.

* See act No. [48.]

† See act No. [76.]

‡ See act No. [73.]

[78.]

[*Laws of the U. S., vol. 7, page 637.*]

CHAP. 11. An act making appropriations for the military service of the United States for the year one thousand eight hundred and twenty-two, and towards the service of the year one thousand eight hundred and twenty-three.

1. Sums appropriated for the military service of the year 1822. 9. Pensions to invalids, commutation pensions, and widows and orphans. 10. Revolutionary pensioners.

APPROVED, MARCH 15, 1822.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the following sums be, and the same are hereby, respectively appropriated for the military service of the United States for the year one thousand eight hundred and twenty-two, to wit: * * *

9. For the pensions to the invalids, to the commutation pensioners, and to the widows and orphans, in addition to an unexpended balance of twenty-seven thousand eight hundred and ninety-one dollars and five cents, the sum of three hundred and seventeen thousand one hundred and eight dollars.

10. For pensions to the revolutionary pensioners of the United States, including a deficiency in the appropriation of last year of four hundred and fifty-one thousand eight hundred and thirty-six dollars and fifty-seven cents, and in addition to an unexpended balance of one hundred and ninety-one thousand three hundred and forty-five dollars and thirty-six cents, of the year one thousand eight hundred and twenty, the sum of one million six hundred and forty-two thousand five hundred and ninety-one dollars.

[79.]

[*Laws of the U. S., Pamphlet Edition of 1823. **]

CHAP. 58. An act supplementary to the acts to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war

1. Secretary of War authorized to restore to the list such pensioners as have been or shall be stricken off by the act of 1st May, 1820, upon certain conditions. 2. A judge may attend at the dwelling of such person as shall be unable to attend in court to make his schedule. 3. No pension to commence previous to the passing of this act, and other pensions only from the completion of the proof.

APPROVED, MARCH 1, 1823.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the Secretary of War be, and he is hereby, authorized and required to restore to the list of pensioners the name of any

* See Pamphlet Edition of Laws, for the year 1823—this law not being included in Davis's Edition.

person who may have been, or hereafter shall be stricken therefrom, in pursuance of the act of Congress, passed the first day of May, one thousand eight hundred and twenty, entitled "An act in addition to an act, entitled 'An act to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war,'" passed the eighteenth day of March, one thousand eight hundred and eighteen, if such person, so stricken from the list of pensioners, has heretofore furnished, or hereafter shall furnish, evidence, in pursuance of the provisions of said act, to satisfy the Secretary of War that he is in such indigent circumstances as to be unable to support himself without the assistance of his country, and that he has not disposed of or transferred his property, or any portion thereof, with a view to obtain a pension.

Sec. 2. *And be it further enacted*, That, when any person, coming within the provisions of the acts to which this is supplementary, shall, by reason of bodily infirmity, be unable to attend in court to make his schedule, and furnish the evidence by said acts required, it shall be lawful for any judge or justice of a court of record in the district, city, county, or borough, in which such person resides, to attend at his place of abode, and receive his schedule and oath or affirmation, and the said judge or justice shall certify that said applicant was, from bodily infirmity, unable to attend such court; which schedule and oath or affirmation, and certificate, shall, by said judge or justice, be produced in the court of which he is judge; and the opinion of said court, of the value of the property contained in said schedule, shall be entered thereon, and certified by the clerk of said court; and such schedule shall be valid for all the purposes contemplated by the acts aforesaid.

Sec. 3. *And be it further enacted*, That no pension hereafter to be allowed on claims or schedules heretofore filed under the act or acts to which this act is a supplement, or under the provisions of this act, shall commence before the passage thereof; and all other pensions hereafter to be allowed, under the acts aforesaid, shall commence from the time of completing the proof.

[80.]

[*Laws of the U. S., vol. 7, page 132.*]

CHAP. 153. An act making appropriations for the military service of the United States, for the year one thousand eight hundred and twenty-three.

1. Appropriation for the military service for 1823. 9. Pensions to invalids. 10. Revolutionary pensioners.

APPROVED, MARCH 3, 1823.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

the following sums be, and the same are hereby, respectively, appropriated for the military service of the United States, for the year one thousand eight hundred and twenty-three, to wit : * *

9. For the pensions to the invalids, to the commutation pensioners, and to the widows and orphans, three hundred and thirty-five thousand dollars.

10. For pensions to the revolutionary pensioners of the United States, one million five hundred and thirty-eight thousand eight hundred and fifteen dollars.

[81.]

[*Laws of the U. S., vol. 7, page 219.*]

CHAP. 257. An act making appropriations for the military service of the United States, for the year one thousand eight hundred and twenty-four.

1. Appropriations for the military service for 1824. 14. Revolutionary pensioners.
15. Invalid pensioners.

APPROVED, MARCH 3, 1824.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, respectively, appropriated for the military service of the United States, for the year one thousand eight hundred and twenty-four, to wit : * * **

14. For pensions to the revolutionary pensioners of the United States, one million two hundred and ninety-one thousand seven hundred and sixteen dollars and thirty-nine cents.

15. For the pensions to the invalids, to the commutation pensioners, and to the widows and orphans, three hundred and thirteen thousand one hundred and seventy-four dollars and forty-two cents.

[82.]

[*Laws of the U. S., vol. 7, page 241.*]

CHAP. 284. An act for the relief of Noah Smith, of Maine.

1. Noah Smith, of Maine, to be placed on the pension list, and to receive eight dollars per month : To be paid to his wife during his life : Should his wife die previous to his death, to be paid to the legal representative.

APPROVED, MAY 5, 1824.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, directed to place*

Noah Smith, an insane person, one of the revolutionary soldiers, on the pension list of the United States, at the rate of eight dollars per month, to commence on the fourth day of March, in the year one thousand eight hundred and twenty-three, which shall be paid as other pensions, by the agent for that purpose, in the State of Maine: *Provided*, That the said pension shall be paid to the wife of the said Noah Smith during his life, and that the said agent shall require evidence, at each payment, that the said Noah Smith is alive, and that the person applying for the pension is duly authorized by the wife of said Noah Smith to receive it, under such forms and regulations as the Secretary of War may direct; and should the wife of the said Noah Smith die previous to the death of said Noah Smith, upon proof of that fact, to the satisfaction of the Secretary of War, he is hereby directed to authorize the payment of said pension to be continued and paid to the legal representative of the said Noah Smith, and for his use, under such regulations as he may think proper.

[83.]

[*Laws of the U. S., vol. 7, page 256.*]

CHAP. 329. An act concerning invalid pensioners.

1. The persons named to be placed on the pension list: Andrew Gorril to receive eight dollars per month: James Wilson, four dollars per month: Parker, Rock, and Thomas, each four dollars per month.

APPROVED, MAY 19, 1824.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, directed to place the following named persons on the pension list of invalid pensioners of the United States, who shall be entitled to, and receive, pensions according to the rates, and commencing at the times, hereinafter mentioned; that is to say:

Andrew Gorril, at the rate of eight dollars per month, to commence on the third day of December, one thousand eight hundred and twenty-one.

James Wilson, at the rate of four dollars per month, to commence on the first day of January, one thousand eight hundred and twenty-three.

William Parker, Rock, and Thomas, three Seneca Indians, residing at Buffalo, in the State of New York, at the rate of four dollars per month, each, to commence the first day of February, one thousand eight hundred and twenty-three.

[84.]

[*Laws of the U. S., vol. 7, page 268.*]

CHAP. 364. An act for the relief of Dean Weymouth and Zachariah Bunker.

1. The pension of Dean Weymouth increased to fifteen dollars per month. 2. The pension of Zachariah Bunker likewise increased to fifteen dollars per month.

APPROVED, MAY 21, 1824.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That,* in consideration of the numerous and severe wounds which he received in the battle of Bridgewater, the pension of Dean Weymouth, already placed on the pension list of the United States, shall be increased to the sum of fifteen dollars per month, to commence on the fourth day of March, one thousand eight hundred and twenty-four.

SEC. 2. *And be it further enacted, That* the pension of Zachariah Bunker, heretofore placed on the pension list, be increased to the sum of fifteen dollars per month, to commence on the fourth of March last.

[85.]

[*Laws of the U. S., vol. 7, page 337.*]

CHAP. 452. An act making appropriations for the military service of the United States, for the year one thousand eight hundred and twenty-five.

1. Appropriations for the military service for 1825. 16. Revolutionary pensions. 17. Half pay pensions to widows.

APPROVED, FEBRUARY 11, 1825.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the following sums be, and the same are hereby, respectively, appropriated for the military service of the United States, for the year one thousand eight hundred and twenty-five, to wit: * *

16. For the pensions to the revolutionary pensioners of the United States, one million two hundred and forty-eight thousand four hundred and fifty-two dollars and twenty-six cents.

17. For the half pay pensions to widows and orphans, twenty thousand dollars.

[86.]

[*Laws of the U. S., vol. 7, page 359.*]

CHAP. 480. An act granting pensions to James Barker and Zebulon Pike.

1. James Barker to be placed on the pension list at the rate of eight dollars per month. 2. Col. Z. Pike to be placed on the same list at twenty dollars per month.

APPROVED, MARCH 3, 1825.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

the Secretary of War be, and he is hereby, directed to place James Barker on the list of revolutionary pensioners of the United States, at the rate of eight dollars per month, commencing on the fourth day of December, one thousand eight hundred and twenty-four; and that said Barker shall be entitled to receive said pension in the manner provided by law.

SEC. 2. *And be it further enacted*, That the Secretary of War be, and he is hereby, directed to place Colonel Zebulon Pike upon the pension list of revolutionary pensioners of the United States, and cause to be paid to him at the rate of twenty dollars per month, commencing on the day the said Zebulon Pike was stricken from the pension roll, up to the sixth of November, eighteen hundred and twenty-four, from which time his pension shall continue.

[87.]

[*Laws of the U. S., vol. 7, page 432.*]

CHAP. 563. An act making appropriations for the payment of the revolutionary and other pensioners of the United States.

1. Appropriations for the military service of the year 1826 : Pensions to revolutionary pensioners of the United States, \$1,352,790 : Invalid and half pay pensioners, \$67,500 : Pensions to widows and orphans, \$12,000. 2. To be paid from the treasury.

APPROVED, JANUARY 18, 1826.*

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and they are hereby respectively, appropriated towards the military service of the year one thousand eight hundred and twenty-six, and for the objects following, that is to say :

For the pensions to the revolutionary pensioners of the United States, one million three hundred and fifty-two thousand seven hundred and ninety dollars.

For the invalid and half pay pensioners, in addition to an unexpended balance of one hundred and fifty thousand dollars, sixty-seven thousand five hundred dollars.

For pensions to the widows and orphans, twelve thousand dollars.

SEC. 2. *And be it further enacted*, That the said sums, respectively, shall be paid out of any money in the Treasury not otherwise appropriated.

* See note, ante, p. p. 127, 128.

[88.]

[*Laws of the U. S., vol. 7, page 473.*]

CHAP. 613. An act for the relief of James Gibson, of Vincennes, Indiana, and James Kay, of Kentucky.

1. James Gibson to be placed on the list of invalid pensioners, at the rate of eight dollars per month, commencing September 4, 1825. 2. James Kay to be placed on the list of invalid pensioners, at the same rate as above, and commencing at the same time.

APPROVED, MAY 16, 1826.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the Secretary of War be, and he is hereby, directed to place James Gibson on the list of invalid pensioners, who served in Captain Begg's company of light dragoons, in the battle with the Indians at Tippecanoe, at the rate of eight dollars per month, commencing on the fourth of September, one thousand eight hundred and twenty-five.

SEC. 2. *And be it further enacted, That* the Secretary of War be, and he is hereby, directed to place James Kay, of Kentucky, upon the list of invalid pensioners, who was wounded in the battle of Brandywine, during the revolutionary war, at the rate of eight dollars per month, to commence upon the fourth day of September, one thousand eight hundred and twenty-five.

[89.]

[*Laws of the U. S., vol. 7, page 504.*]

CHAP. 672. An act to provide for paying certain pensioners at Pittsburg, in the State of Pennsylvania.

1. Secretary of War empowered to establish a pension agency in Pittsburg, Pennsylvania, for the payment of pensioners, residents in the counties of Monroe, Morgan, &c. 2. Secretary of the Treasury to make the necessary arrangements with the Bank of the U. States for paying them.

APPROVED, MAY 20, 1826.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the Secretary of War be, and he is hereby, authorized and empowered to establish a pension agency at Pittsburg, in the State of Pennsylvania, for the payment of pensioners of the United States, resident in the counties of Monroe, Morgan, Perry, Guernsey, Belmont, Jefferson, Harrison, Tuscarawas, Holmes, Wayne, Stark, Columbiana, Trumbull, Ashtabula, Geauga, Portage, Cuyahoga, Lorain, Medina, Huron, Sandusky, Seneca, and Richland, in the State of Ohio, and the counties of Alleghany, Armstrong, Butler, Beaver, Washington, Westmoreland, Indiana, and Jefferson, in the State of Pennsylvania.

SEC. 2. *And be it further enacted, That* the Secretary of the Treasury is authorized to make the necessary arrangements with

the Bank of the United States for paying the before mentioned pensioners, at the office of discount and deposite of said bank, at Pittsburg, as in other cases.

[90.]

[*Laws of the U. S., vol. 7, page 518.*]

CHAP. 704. An act for the relief of Alfred Flournoy.

1. Alfred Flournoy, who is placed on the pension list, to enter within eighteen months after the passage of this act, two sections of land in the States of Mississippi and Alabama, in full discharge of his pension: Not to enter less than a quarter section, unless where it be a fraction, &c. 2. On making any entry, his pension certificate is to be returned to the Secretary of War: Pension to cease next quarter after such surrender.

APPROVED, MAY 22, 1826.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Alfred Flournoy, of the State of Tennessee, lately a lieutenant in the army of the United States, and who, in consequence of the loss of a leg from a Spanish battery at Pensacola, has been placed on the pension list at fourteen dollars a month, be, and he is hereby, authorized and empowered, within eighteen months from the passing of this act, to enter in any office in the States of Mississippi or Alabama, two sections of land, in commutation of, and in full discharge of his pension: *Provided*, That no entry shall be made, but of land which may have been previously offered at public sale: *And provided*, He shall not enter a less quantity than a quarter section, unless where it may be a fraction; nor any lands which may have been heretofore relinquished, until after they may be again offered at public sale.

SEC. 2. *And be it further enacted*, That, on making any entry, in pursuance of the provisions of this act, with any register, the said Alfred Flournoy shall deposite his pension certificate, to be returned by said register to the Secretary of War; and thereupon his said pension shall cease and determine on the next quarter day after such surrender.

[91.]

[*Laws of the U. S., vol. 7, page 533.*]

CHAP. 725. An act making appropriations for the payment of the revolutionary and other pensioners of the United States.

1. Sums respectively appropriated towards the payment of revolutionary pensioners: Pensions to revolutionary pensioners, \$1,260,185: Invalid and half pay pensioners, \$301,055: Widows and orphans, \$12,000. 2. Sums appropriated to be paid from the Treasury.

APPROVED, JANUARY 29, 1827.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

the following sums be, and they are hereby, respectively appropriated towards the military service of the year one thousand eight hundred and twenty-seven, and for the objects following; that is to say:

For the pensions to the revolutionary pensioners of the United States, one million two hundred and sixty thousand one hundred and eighty-five dollars.

For the invalid and half pay pensioners, three hundred and one thousand and fifty-five dollars.

For pensions to the widows and orphans, twelve thousand dollars.

SEC. 2. *And be it further enacted*, That the said sums, respectively, shall be paid out of any money in the Treasury not otherwise appropriated.

[92.]

[*Laws of the U. S., vol. 7, page 594.*]

CHAP. 794. An act concerning invalid pensioners.

1. The Secretary of War directed to place the persons named on the pension list at the rates mentioned. 2. The Secretary of War directed to pay to the executors of James Campbell, and the widow of Wm. Nithercut, the amount of pension due them, at the time of their decease: George Siddle, eight dollars per month: Alexander McNutt, eight dollars per month. 3. Thomas Pendexter, of Maine, to be placed on the same list, at eight dollars per month.

APPROVED, MARCH 3, 1827.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, directed to place the following named persons on the pension list of invalid pensioners of the United States, who shall be entitled to and receive pensions according to the rates, and commencing at the times herein-after mentioned, to wit:

Ebenezer Lord, at the rate of four dollars per month, to commence on the fourteenth day of December, one thousand eight hundred and twenty-five.

Isaac Carpenter, at the rate of four dollars per month, to commence on the fifteenth day of December, one thousand eight hundred and twenty-five.

Simon Crygier, at the rate of eight dollars per month, to commence on the fifteenth day of December, one thousand eight hundred and twenty-five.

Alexander Watts, at the rate of eight dollars per month, to commence on the twenty-first day of December, one thousand eight hundred and twenty-five.

Robert Dinsmore at the rate of four dollars per month, to commence on the sixteenth day of January, one thousand eight hundred and twenty-six.

Joshua Wheeler, at the rate of six dollars per month, to commence on the twenty-seventh day of January, one thousand eight hundred and twenty-four.

Mark R. Roberts, at the rate of five dollars per month, to commence on the twenty-sixth day of January, one thousand eight hundred and twenty-six.

Levi Hathaway, at the rate of six dollars per month, to commence on the fourteenth day of December, one thousand eight hundred and twenty-five.

Adam Cooper, at the rate of eight dollars per month, to commence on the twentieth day of December, one thousand eight hundred and twenty-five.

John Y. Hall, at the rate of five dollars per month, to commence on the first day of January, one thousand eight hundred and twenty-six.

Eleazer Scott, at the rate of six dollars per month, to commence on the ninth day of January, one thousand eight hundred and twenty-six.

James De Witt, at the rate of eight dollars per month, to commence on the thirty-first day of March, one thousand eight hundred and twenty-six.

Thomas Jones, at the rate of five dollars per month, to commence on the twenty-seventh day of March, one thousand eight hundred and twenty-six.

Patrick Mulligan, at the rate of five dollars per month, to commence on the twenty-seventh day of March, one thousand eight hundred and twenty-six.

Lina T. Helm, at the rate of ten dollars per month, to commence on the thirtieth day of January, one thousand eight hundred and twenty-six.

Edmund W. Wood, at the rate of eight dollars per month, to commence on the third day of May, one thousand eight hundred and twenty-six.

Vassal White, at the rate of eight dollars per month, to commence on the first day of January, one thousand eight hundred and twenty-six, to be paid in the same manner as the invalid pensioners who have been placed on the invalid pension roll are now paid.

SEC. 2. *And be it further enacted*, That the Secretary of War be authorized and directed to pay to the executors of James Campbell, deceased, an invalid pensioner, the amount of pension due the said James Campbell, at the time of his decease, and also to the widow of William Nithercut, deceased, a pensioner, the amount of pension due the said William Nithercut, at the time of his decease.

George Siddle, at the rate of eight dollars per month, to commence on the third day of March, one thousand eight hundred and twenty-seven.

Alexander McNutt, at the rate of eight dollars per month, to commence on the third day of March, one thousand eight hundred and twenty-seven.

SEC. 3. *And be it further enacted*, That the Secretary of War be, and he is hereby, directed to place Thomas Pendexter, of Maine, on the list of invalid pensioners, who served in Captain Dunn's company of infantry in the late war with Great Britain, at the rate of eight dollars per month, commencing on the third day of March, one thousand eight hundred and twenty-seven.

[93.]

[*Laws of the U. S., Pamphlet Edition for 1828.*]

CHAP. 4. An act making appropriations for the payment of revolutionary and other pensioners of the United States.

1. Sums appropriated for the year 1828: Pensions to revolutionary pensioners: Invalid and half pay pensioners.

APPROVED, FEBRUARY 12, 1828.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and they are hereby, respectively, appropriated towards the military service of the year one thousand eight hundred and twenty-eight, and for the objects following, that is to say:

For the pensions of the revolutionary pensioners of the United States, in addition to an unexpended balance of former appropriations of five hundred and sixty-four thousand dollars, two hundred and thirty-six thousand dollars.

For the invalid and half pay pensioners, in addition to a balance of one hundred and forty-one thousand dollars of former appropriations, one hundred and sixty thousand and ninety-five dollars.

[94.]

[*Laws of the U. S., Pamphlet Edition for 1828.*]

CHAP. 34. An act for the relief of John Shirkey.

1. Secretary of War to place John Shirkey on the pension list of military pensioners, at the rate of \$5 33 $\frac{1}{4}$ cts. per month, to commence the 19th February, 1827.

APPROVED, APRIL 17, 1828.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, directed to place John Shirkey on the pension list of military pensioners of the United States, who shall be entitled to, and shall receive, a pen-

sion, at the rate of five dollars and thirty-three and one-third cents per month, to commence on the nineteenth day of February, one thousand eight hundred and twenty-seven.

[95.]

[*Laws of the U. S., Pamphlet Edition for 1828.*]

CHAP. 37. An act for the relief of Richard Taylor.

1. Secretary of the Treasury to pay to Richard Taylor, of Kentucky, \$2,551 58 cents for pension.

APPROVED, APRIL 28, 1828.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury is hereby directed to pay to Richard Taylor, of Kentucky, out of any money in the Treasury not otherwise appropriated, the sum of two thousand five hundred and fifty-one dollars and fifty-eight cents, for pension, being the difference between two dollars and a half per month, from the sixth of November, one thousand seven hundred and ninety-two, to the last day of December, one thousand eight hundred and four, and twenty dollars per month for the same time.

[96.]

[*Laws of the U. S., Pamphlet Edition for 1828.*]

CHAP. 53. An act for the relief of certain surviving officers and soldiers of the army of the revolution.

1. Each of the surviving officers of the revolutionary army in the continental line who was entitled to half pay by resolve of October 21st, 1780, to receive pay according to his rank in the line. 2. When any of said officers has received money of the United States since 3d March, 1826, sum received to be deducted.

APPROVED, MAY 15, 1828.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That each of the surviving officers of the army of the revolution, in the continental line, who was entitled to half pay by the resolve of October twenty-first, seventeen hundred and eighty, be authorized to receive, out of any money in the Treasury not otherwise appropriated, the amount of his full pay in said line, according to his rank in the line, to begin on the third of March¹ one thousand eight hundred and twenty-six, and to continue during his natural life: *Provided*, That under this act, no officer shall be entitled to receive a larger sum than the full pay of a captain in said line.

SEC. 2. *And be it further enacted*, That whenever any of said officers has received money of the United States, as a pensioner,

since the third day of March, one thousand eight hundred and twenty-six, aforesaid, the sum so received shall be deducted from what said officer would otherwise be entitled to under the first section of this act; and every pension to which said officer is now entitled shall cease after the passage of this act.

[97.]

[*Laws of the U. S., Pamphlet Edition for 1828.*]

CHAP. 101. An act to revive and continue in force an act, entitled "An act to provide for persons who were disabled by known wounds received in the Revolutionary war."

1. Act of 10th April, 1806, continued in force for the term of six years: Evidence in support of any claim under act of 15th May, 1820, to be acted upon by the Secretary of War: Any thing contained in this act not to be construed to repeal or make void the 4th section of an act concerning invalid pensions of 3d March, 1819. 2. Right of any person to receive a pension, in virtue of any law of the United States, shall be construed, &c. 3. Agents for the payment of pensions to invalid pensioners required to give bonds.

APPROVED, MAY 24, 1828.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act entitled "An act to provide for persons who were disabled by known wounds received in the revolutionary war,"* passed on the tenth day of April, one thousand eight hundred and six, and limited, as in said act declared, to the term of six years, and afterwards revived and continued in force for and during the term of six years, by an act entitled "An act to revive and continue in force 'An act to provide for persons who were disabled by known wounds received in the revolutionary war, and for other purposes,'"† passed on the twenty-fifth of April, in the year one thousand eight hundred and twelve, and afterwards revived and continued in force for the term of one year, by an act entitled "An act to revive and continue in force an act entitled 'An act to provide for persons who were disabled by known wounds received in the revolutionary war,'"‡ passed on the fifteenth day of May, in the year one thousand eight hundred and twenty, and further revived and continued in force for the term of six years, by an act entitled "An act to revive and continue in force an act entitled 'An act to provide for persons who were disabled by known wounds received in the revolutionary war,'"§ passed on the fourth day of February, in the year one thousand eight hundred and twenty-two, shall be, and the said act is hereby revived and continued in full force and effect for and during the term of six years from and after the passing of this act, and from thence unto the end of the next session of Congress: *Provided,* That any evidence which has been taken to support any claim of any person disabled in the revolutionary war, under the authority of the act of the

* See act, No. [35.] † See act, No. [48.] ‡ See act, No. [76.] § See act, No. [77.]

fifteenth of May, one thousand eight hundred and twenty, reviving and continuing in force for one year "An act to provide for persons who were disabled by known wounds received in the revolutionary war,"* shall be received and acted upon by the Secretary of War, in the same manner as if said act was still in force, and had not expired: *And provided, also*, That this act, and any thing contained in the act hereby revived and continued in force, shall not be construed to repeal or make void the fourth section of an act, entitled "An act concerning invalid pensions,"† passed the third of March, one thousand eight hundred and nineteen; and the said fourth section of the said last mentioned act shall be, and the same is hereby declared to be, and to continue to be in full force and effect; any thing in said act hereby revived and continued in force to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That the right any person has, or hereafter may acquire, to receive a pension in virtue of any law of the United States, shall be construed to commence at the time of completing his testimony, pursuant to the act hereby revived and continued in force.

SEC. 3. *And be it further enacted*, That, the agents for the payment of pensions to invalid pensioners of the United States, shall in future be required to give bonds, with two or more sureties, to be approved by the Secretary of the Department of War, in such penalty as he shall direct, for the faithful discharge of the duties confided to them respectively.

[98.]

[*Laws of the U. S., Pamphlet Edition for 1828.*]

CHAP. 108. An act making appropriations for the payment of the revolutionary and other pensioners of the United States, for the first quarter of the year one thousand eight hundred and twenty-nine.

1. Sums respectively appropriated: For pensions to revolutionary pensioners: For half pay pensions to widows: For invalid and half pay pensioners. 2. Sums appropriated to be paid from the treasury.

APPROVED, MAY 24, 1828.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and they are hereby, respectively appropriated for the objects following, to wit:

For the pensions to the revolutionary pensioners of the United States, two hundred thousand dollars.

For half pay pensions to widows and orphans, three thousand dollars.

For the invalid and half pay pensioners, seventy-five thousand dollars.

* See act of that date, No. [76.]—ante.

† See act of that date, No. [73.]—ante.

SEC. 2. *And be it further enacted*, That the sums herein appropriated shall be paid out of any money in the treasury not otherwise appropriated; but that no part of the same shall be drawn from the treasury before the first of January, one thousand eight hundred and twenty-nine.

[99.]

[*Laws of the U. S., Pamphlet Edition for 1829.*]

CHAP. 28. An act making provision for the payment of pensions to the widow or children of pensioners, in certain cases, and for other purposes.

1. Entitles representatives of deceased invalid pensioner to arrears of pension. 2. Arrears due to deceased revolutionary pensioner, to be paid to his widow. 3. Testimony regarding wounds received in revolutionary war.

APPROVED, MARCH 2, 1829.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in case of the death of any invalid pensioner, before the certificate of the continuance of his disability, required by the act entitled "An act regulating the payments to invalid pensioners," passed March third, one thousand eight hundred and nineteen,* was obtained, it shall be lawful for the Secretary of War, and he is hereby directed, to pay to the legal representatives of such deceased invalid, the arrears of pension due at the time of his death, at the rate at which it was fixed at his last examination: *Provided*, Such last examination was within two years from the time of his death.

SEC. 2. *And be it further enacted*, That whenever any revolutionary pensioner shall die, the Secretary of War shall cause to be paid the arrears of pension due to the said pensioner at the time of his death; and all payments, under this act, shall be made to the widow of the deceased pensioner, or to her attorney; or if he left no widow, or she be dead, to the children of the pensioner, or to their guardian, or his attorney; and if no child or children, then to the legal representatives of the deceased.

SEC. 3. *And be it further enacted*, That in all cases of applications for pensions, for wounds received in the revolutionary war, the testimony to establish the facts may be authenticated in the same manner with those who apply for pensions for wounds received in the late war with Great Britain.

* See act of that date, No. [70.]—ante.

[100.]

[*Laws of the U. S., Pamphlet Edition for 1830.*]

CHAP. 10. An act making appropriations for the payment of revolutionary and invalid pensioners.

1. Appropriations for revolutionary and invalid pensioners: Arrearages: Revolutionary pensioners: Invalid pensioners.

APPROVED, FEBRUARY 3, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and same are hereby, appropriated, to be paid out of any money in the treasury not otherwise appropriated, for paying the revolutionary and invalid pensioners, viz:

For arrearages due to revolutionary pensioners, for the year one thousand eight hundred and twenty-nine, one hundred and one thousand seven hundred dollars.

For paying the revolutionary pensioners, for the year one thousand eight hundred and thirty, nine hundred and sixty-six thousand four hundred and eighty dollars.

For paying the invalid pensioners, for the year one thousand eight hundred and thirty, one hundred and ninety-one thousand four hundred and eighty-one dollars, in addition to a balance in the treasury of one hundred and seven thousand eight hundred and forty-nine dollars and ninety-six cents.

[101.]

[*Laws of the U. S., Pamphlet Edition for 1830.*]

CHAP. 51. An act for the relief of Richard Taylor, of Kentucky.

1. Richard Taylor exempted from operation of act of January 25, 1828.

APPROVED, MARCH 31, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That nothing in the provisions of the act, entitled "An act to prevent defalcations on the part of disbursing agents of the government, and for other purposes," approved the twenty-fifth of January, one thousand eight hundred and twenty-eight, shall be so construed as to prevent the payment of the pension now due, or which may hereafter become due, and payable to Richard Taylor of Kentucky, an invalid pensioner; but the same shall be paid to him as though the said act had never passed.

[102.]

[*Laws of the U. S., Pamphlet Edition for 1830.*]

CHAP. 54. An act to increase the pension of Charles Larrabee.

1. Twenty-five dollars per month to be paid to Charles Larrabee.

APPROVED, APRIL 2, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Charles Larrabee, an invalid pensioner, be, and he is hereby, entitled to receive twenty-five dollars per month, in lieu of the pension to which he is now entitled.*

[103.]

[*Laws of the U. S., vol. 8, page 280.*]

CHAP. 281. An act for the relief of Captain Daniel McDuff.

1. Daniel McDuff allowed full pay as captain in revolutionary army.
2. Land warrant granted him.

APPROVED, APRIL 2, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the act entitled "An act for the relief of certain surviving officers and soldiers of the army of the revolution," approved on the 15th May, one thousand eight hundred and twenty-eight, be, and the same are hereby, extended to the said Daniel McDuff, as a captain in the continental line, in the same manner, and to the like effect, as if he had been placed on the pension list, as captain under said act.*

SEC. 2. *And be it further enacted, That the said Daniel McDuff shall be entitled to demand and receive a warrant for the like quantity of land, for which warrants have been issued to other captains of the continental line, in the war of the revolution.*

[104.]

[*Laws of the U. S., Pamphlet Edition for 1830.*]

CHAP. 97. An act for the relief of sundry revolutionary and other officers and soldiers, and for other purposes.

1. Secretary of War to place certain names on revolutionary pension list at \$20 a month from January 1, 1828.
2. Certain names to be placed on invalid pension list: Amounts of pension: To commence January 1, 1828.
3. Certain names to be placed on revolutionary pension list at \$8 a month, to commence January 1, 1828.
4. Certain allowances substituted to present pensions.
5. Certain names to be put on invalid pension list, at \$8 a month.
6. Certain names to be put on invalid pension list: Amounts of pension: To commence January 1, 1828.
7. Pension of Wm. Little to be paid to his administratrix.
8. Rachel Turner to be put on half pay list, at \$4 a month for five years.
9. Andrew Herrick to be put on revolutionary pension list at \$8 a month.
10. T.

Scott to be put on invalid pension list at \$8 a month. 11. \$4 a month for five years, from January 1, 1828, to be paid to minor children of C. Hurlbut. 12. J. Royal to be put on pension list at \$8 a month from January 1, 1829. 13. Appropriation. 14. Arrears to be paid to widows.

APPROVED, MAY 20, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized and required to place the names of John L. Polleresky, a major, Samuel Snow, and David Meade Randolph, captains, Sylvanus Wood, Samuel Geroock, William Holgate, and Nathaniel Elliot, lieutenants, and George Wunder, an ensign, in the revolutionary war, on the list of revolutionary pensioners, and to pay them each at the rate of twenty dollars a month, commencing on the first day of January, one thousand eight hundred and twenty-eight.

SEC. 2. *And be it further enacted,* That the Secretary of War be, and he is hereby, authorized and required to place the names of Samuel Hoadly, late a major, Robert Kane, an adjutant in a corps of volunteers, Zachariah S. Conger, John Downer, Stephen Shea, and Michal Fishel, lieutenants, and Henry Starring, Jr., an ensign in the late war, on the list of invalid pensioners; and to pay them as follows, to wit: to Samuel Hoadly, twelve dollars a month, to Robert Kane, eight dollars a month, to Zachariah S. Conger, fourteen dollars a month, to John Downer, fifteen dollars a month, to Stephen Shea, twenty dollars a month, to Michael Fishel, seventeen dollars a month, and to Henry Starring, Jr., ten dollars a month, commencing on the first day of January, one thousand eight hundred and twenty-eight.

SEC. 3. *And be it further enacted,* That the Secretary of War be, and he is hereby, required to place the names of the following persons upon the list of revolutionary pensioners, viz: Samuel French, William Lawrence, Asa Wilkins, Stephen Fuller, Stephen Wilcox, Elijah Johnston, Samuel Sykes, Josiah Morse, Abiel Brown, John Lemmon, Andrew Bacon, Joseph Raynsford, Benjamin Mott, Joseph Boss, Levi Hutchins, John Perry, second, James Johnson, James Robinson, Chamberlain Hudson, Philemon Tiffany, Lemuel Pardee, Joseph Wilson, Isaac Smally, William Cole, Hartman Lower, John Reizer, Daniel Hinds, Joseph B. Jennison, Henry Romer, David Carswell, Joseph Barlow, Hamblin Cole, John Powell, Christopher Cary, William Scott, of Connecticut, Joseph Chaplin, John Putney, John Stout, Philip Nagle, Frederick Stull, James Porter, Absalom Baker, Richard Nagle, Robert Ditcher, Ezekiel Knowles, Caleb Wiseman, Thomas Putney, Anselm Bailey, William Scott, of Smithfield, Bradford county, Pennsylvania, Micajah Mayfield, Tristram Dagget, Edward Currin, George Geller, Samuel Fox, Joseph Nielson, Eli Sugart, Timothy Benedict, Asa Quiry, Seth Higley, William Higginbotham, Lemuel Withington, William Harris, Amos Ingraham, Benjamin Jones, Thomas Salsbury, John Israel, Elias Porter, Frederick Sheckler, Reuben Ricker, Anthony Sluthour, Reuben Carter, Joseph Smith,

John Hudson, Nathaniel Fuller, Henry Doll, Amos Andrews, Valentine Stickell, Joel Riggings, William Vickroy, Joseph Randall, John McMurtry, James Long, William Rockwell, Stephen Bennet, Josiah Mott, Simon Fobes, Thomas Bloomfield, Obed Cushman, Nathan Lockwood, Dennis Jones, Robert Milton, James Needs, Christopher Ward, Eliakim Clap, William Pew, revolutionary soldiers, John McClain, a sailor, and Christopher Sype, a musician, and restore to the same list the names of Archibald Jackson, Roger Merrill, David Colson, Samuel Payson, Zadock Morris, Jacob Cremer, James Davidson, George Lucas, Jacob Reddington, Ebenezer Beeman, Charles Sterns, Zacheus Rich, Francis Newton, Joshua Spears, Zephaniah Ross, Leonard Corl, and Moses Weld, and to pay them each at the rate of eight dollars a month, commencing on the first day of January, eighteen hundred and twenty-eight.

SEC. 4. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and required to pay, instead of their present pensions, to Humphrey Becket, Levi Hathaway, and Jacob Zimmerman, revolutionary soldiers, the sum of eight dollars a month to the two former, four dollars to the latter, and eight dollars a month each to Minney Ryneason and George Doogan, soldiers of the late war, to commence respectively on the first day of January, eighteen hundred and twenty-eight.

SEC. 5. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and required to place the names of James McFarland, Henry Houser, James Ferrell, Esau Ritchey, George W. Morrison, Robert Gumbleton, Robert Curry, William Ferguson, Levi M. Roberts, William M. Fowler, Ebenezer Lord, Joseph Booth, John Carlton, second, soldiers of the late war, Tandehetse, a Seneca warrior of the late war, Thomas Flemming, Cornelius Huson, Stephen Twist, William Turney, James Riley, and Adrian Peters, on the list of invalid pensioners, and to pay them at the rate of eight dollars per month each, commencing respectively on the first day of January, eighteen hundred and twenty-eight.

SEC. 6. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and required to place the names of the following persons upon the invalid pension list, at the following rates, to wit: Silas Pease and Peter Shite at the rate of eight dollars per month each; Joshua Bill, Henry Barton, Robert Mophet, James D. Richardson, and Daniel Depuy, at the rate of five dollars thirty-three and one-third cents each; Benjamin Gates, at the rate of six dollars; William Gamage, Isaac Plumer, Thomas Gilbert, Jonathan Edwards, Asa Pratt, Elisha Douglass, John Pearle, William Clark, Jonathan Hoyt, and Henry Johnson, an Indian warrior of the Six Nations, at the rate of four dollars a month each; commencing respectively on the first day of January, eighteen hundred and twenty-eight.

SEC. 7. *And be it further enacted*, That the Secretary of War be, and he is hereby, directed to pay to Ann Little, administratrix

of the estate of William Little, deceased, the amount of pension of said William Little, for one year nine months and twenty-nine days.

SEC. 8. *And be it further enacted*, That the Secretary of War be, and he is hereby, required to place the name of Rachel Turner, widow of Peter Turner, a soldier of the late war, on the list of half pay pensioners, and pay to her at the rate of four dollars a month, for the term of five years, to commence on the first day of January, one thousand eight hundred and twenty-eight.

SEC. 9. *And be it further enacted*, That the Secretary of War be, and he is hereby, required to place the name of Andrew Herick, a soldier of the Revolution, and now a lunatic, upon the list of revolutionary pensioners, and pay to such person or persons as may be appointed and properly authorized, for the time being, to take charge of his person and estate, at the rate of eight dollars per month, to commence on the first day of January, one thousand eight hundred and twenty-eight.

SEC. 10. *And be it further enacted*, That the Secretary of War be, and he is hereby, directed to place the name of Thomas Scott, alias Silas Knox, a soldier of the late war, and now a lunatic, upon the list of invalid pensioners of the United States, and to pay to such person or persons as may be appointed and properly authorized to take charge of the person and estate of said Thomas Scott, alias Knox, at the rate of eight dollars per month, to commence on the first day of January, one thousand eight hundred and twenty-eight; which said pension shall continue so long as the said Secretary shall be satisfied of the continuance of the disability aforesaid.

SEC. 11. *And be it further enacted*, That the Secretary of War be, and he is hereby, directed to pay to the minor children of Collins Hurlbut, a soldier of the late war, their guardians, or such other person as may be lawfully authorized to receive the same for the use of the said children, the sum of four dollars per month, for the term of five years, to commence on the first day of January, one thousand eight hundred and twenty-eight.

SEC. 12. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and required to place upon the pension roll, the name of James Royal, of Tennessee, at the rate eight dollars per month, to be paid at the same time, and in the same manner, as pensions are usually paid, to commence on the first day of January, one thousand eight hundred and twenty-nine.

SEC. 13. *And be it further enacted*, That the pensions aforesaid shall be paid out of any moneys in the treasury not otherwise appropriated, in the same manner that other pensions are now payable.

SEC. 14. *And be it further enacted*, That in all cases of the death of any of the pensioners named in this act, leaving a widow, such widow shall be entitled to receive the arrears of pension due at the decease of her husband, under such rules and regulations as the Secretary of War may prescribe.

[105.]

[*Laws of the U. S., Pamphlet Edition for 1830.*]

CHAP. 128. An act for the relief of John H. Wendal, a captain in the revolutionary war.

APPROVED, MAY 28, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the Secretary of War be, and he is hereby, authorized and required to place the name of John H. Wendal upon the list of revolutionary pensioners, and to pay him at the rate of forty dollars a month during his natural life.

[106.]

[*Laws of the U. S., Pamphlet Edition for 1830.*]

CHAP. 129. An act for the relief of the legal representatives of James Davenport, deceased.

APPROVED, MAY 28, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the proper accounting officer of the Treasury Department be, and he is hereby, authorized and required to pay to the legal representatives of James Davenport, deceased, late an invalid pensioner of the United States, out of any money in the treasury not otherwise appropriated, the pension allowed to the same James Davenport, from the fourth of September, eighteen hundred and eighteen, when he received his last payment, until the time of his death.

[107.]

[*Laws of the U. S., Pamphlet Edition for 1830.*]

CHAP. 139. An act for the relief of General Simon Kenton.

APPROVED, MAY 28, 1828.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the Secretary of War be, and he is hereby, authorized and required to place General Simon Kenton upon the list of revolutionary pensioners, and to pay him at the rate of twenty dollars a month, to commence on the first day of January, one thousand eight hundred and twenty-nine.

SEC. 2. *And be it further enacted, That* the pension aforesaid shall be paid out of any moneys in the treasury, not otherwise appropriated, in the same manner that other pensions are now paid.

[108.]

[*Laws of the U. S., Pamphlet Edition for 1830.*]

CHAP. 142. An act for the relief of Abraham Brownson.

APPROVED, MAY 28, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions of the act entitled "An act for the relief of certain surviving officers and soldiers of the army of the revolution," approved fifteenth May, one thousand eight hundred and twenty-eight, be, and they are hereby declared to be, applicable to the case of Abraham Brownson, who enlisted in the regiment commanded by Colonel Seth Warner, in the revolutionary war; and that the Secretary of the Treasury be, and he is hereby, directed to extend the benefit of the said act to him, any thing contained in the same to the contrary notwithstanding.

[109.]

[*Laws of the U. S., vol. 7, page 328.*]

CHAP. 352. An act for the relief of the heirs or legal representatives of Joseph Falconer, deceased.

APPROVED, MAY 28, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the proper accounting officers of the Treasury Department be authorized to audit and settle the claim of Joseph Falconer, an officer of the revolution, formerly of Philadelphia, deceased, on account of two several loan office certificates, issued April twenty-first, one thousand seven hundred and seventy-eight, to and in the name of John Cox; namely, one for the sum of one thousand dollars, and numbered thirty-five, and one for the sum of six hundred dollars, and numbered two thousand nine hundred and ninety-seven, and to ascertain the true specie value of the same, exclusive of interest:* which certificates are alleged to have been lost, and appear by the books of the treasury to be outstanding and unpaid; and that the amount so ascertained as aforesaid be paid to the heirs or legal representatives of the said Joseph Falconer, or either of them, duly authorized and empowered to receive the same, out of any money in the treasury not otherwise appropriated: *Provided*, That the person or persons receiving the amount aforesaid, shall first execute and deliver to the Comptroller of the Treasury, a bond of indemnity in double the amount of the sums to be paid, with sufficient security, as the said Comptroller shall direct and approve.

* See the act of 28th June, 1834, (post,) in which this interest was allowed; and from which time became the settled policy of Congress to allow the interest on these certificates. For the nature and origin of these certificates, see the law itself, quoted in the introduction.

[110.]

[*Laws of the U. S., vol. 8, page 332.*]

CHAP. 361. An act for the relief of Stephen Olney.

1. Captain Stephen Olney allowed full pay as a captain in revolutionary army.

APPROVED, MAY 28, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the benefits of the provisions of the act entitled "An act for the relief of certain surviving officers and soldiers of the army of the revolution," passed May the fifteenth, one thousand eight hundred and twenty-eight, be extended to Stephen Olney, of Rhode Island, a captain in the army of the revolution, and that he be paid and accounted with in the same manner as if he had already, at any time heretofore, since the passage of said act, complied with all the requisitions of the fourth section thereof, to be paid out of any money in the treasury not otherwise appropriated.*

[111.]

[*Laws of the U. S., vol. 8, page 355.*]

CHAP. 400. An act for the relief of Abel Allen.

APPROVED, MAY 29, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war, passed the eighteenth day of March, eighteen hundred and eighteen, shall be construed to authorize the Secretary of War to place on the pension list Abel Allen, a soldier in the revolutionary war, now insane, of the date of the eighteenth of August, Anno Domini eighteen hundred and twenty-nine, and that the receipt of his guardian, for the time being, shall be sufficient for the pension allowed by the said act.*

[112.]

[*Laws of the U. S., Pamphlet Edition for 1830.*]

CHAP. 182. An act granting pensions to Samuel H. Phillips, Cord Hazard, and John M'Creeary, and to increase the pension of George W. Howard.

APPROVED MAY 29, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, directed to place the fol-*

lowing named persons on the list of invalid pensioners of the United States, who shall be entitled to and receive pensions, according to the rates and commencing at the times hereinafter mentioned, that is to say:

Cord Hazard, at the rate of twenty dollars per month, to commence on the first day of January, one thousand eight hundred and twenty-nine.

Samuel H. Phillips, at the rate of twenty dollars per month, to commence from the first day of January, one thousand eight hundred and thirty.

John M'Creary, at the rate of eight dollars per month, to commence on the first day of January, one thousand eight hundred and twenty-nine.

George W. Howard, who has been heretofore placed on the invalid pension list, to receive, hereafter, the sum of fourteen dollars per month, to commence on the first day of January, one thousand eight hundred and thirty.

SEC. 2. *And be it further enacted*, That the pensions above granted shall be continued to the persons, respectively, during their respective lives; and that it shall not be necessary for them to produce an affidavit of continued disability.

[113.]

[*Laws of the U. S., Pamphlet Edition for 1830.*]

CHAP. 229. An act to amend the act entitled "An act for the relief of certain surviving officers and soldiers of the army of the revolution."

APPROVED, MAY 31, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the second section of the act entitled "An act for the relief of certain surviving officers and soldiers of the army of the revolution," approved the fifteenth of May, one thousand eight hundred and twenty-eight, shall not be construed to embrace invalid pensioners, and that the pension of invalid soldiers shall not be deducted from the amount receivable by them under the said act.

[114.]

[*Laws of the U. S., Pamphlet Edition for 1830.*]

CHAP. 232. An act for the relief of Isaac Pinney.

APPROVED, MAY 31, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he hereby is, directed to restore the

name of Isaac Pinney to the roll of revolutionary pensioners, and to cause him to be paid at the rate of eight dollars per month, from and after the first day of January, one thousand eight hundred and twenty-eight.

[115.]

[*Laws of the U. S., Pamphlet Edition for 1830.*]

No. 7. Resolution requiring annual reports to be made to Congress in relation to applications for pensions.

Returns of applicants for pensions to be made to Congress.

APPROVED, MAY 29, 1830.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the heads of department who may severally [be] charged with the administration of the pension laws of the United States of America, be, and they hereby are, respectively, directed and required, as soon as may be after the opening of each session of Congress, to present to the Senate and House of Representatives a several list of such persons, whether revolutionary, invalid, or otherwise, as shall have made application for a pension, or an increase of pension, and as, in their opinion, respectively, ought to be placed upon the pension roll, or otherwise provided for, and for doing which they have no sufficient power or authority, with the names and residence of such persons, the capacity in which they served, the degree or relief proposed, and a brief statement of the grounds thereof, to the end that Congress may consider the same.

[116.]

[*Laws of the U. S., vol. 8, page 399.*]

CHAP. 466. An act for the relief of Aaron Fitzgerald.

1. Aaron Fitzgerald, pension increased. 2. Arrears to be paid him.

APPROVED, JANUARY 13, 1831.

SEC. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be directed to place Aaron Fitzgerald on the pension list during life, at twelve dollars per month, instead of the pension which now receives.

SEC. 2. And be it further enacted, That there be paid to the said Aaron Fitzgerald the sum of three hundred and sixty-one dollars and sixty-six cents, being the difference between six dollars per month actually allowed him as a pension, and eight dollars per month, which ought to have been allowed him from the twenty-first of February, one thousand eight hundred and fifteen,

to the eleventh of March, one thousand eight hundred and thirty, and that the said sum be paid to him out of any money in the Treasury not otherwise appropriated.

[117.]

[*Laws of the U. S., Pamphlet Edition for 1831.*]

CHAP. 9. An act making appropriations for the payment of revolutionary and invalid pensioners.

1. Revolutionary pensions, \$1,011,100: Invalid pensions, 276,720 in addition to \$29,246 95: Widows and orphans, \$5,000.

APPROVED, JANUARY 27, 1831.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the treasury not otherwise appropriated, for paying revolutionary and invalid pensioners, viz:

For payment of revolutionary pensioners, for the year one thousand eight hundred and thirty-one, one million eleven thousand one hundred dollars.

For paying the invalid pensioners, in the year one thousand eight hundred and thirty-one, two hundred and seventy-six thousand seven hundred and twenty dollars, in addition to an unexpended balance of appropriation for invalid pensioners of twenty-nine thousand two hundred and forty-six dollars ninety-five cents.

For pensions to widows and orphans, five thousand dollars.

[118.]

[*Laws of the U. S., Pamphlet Edition for 1831.*]

CHAP. 78. An act for the relief of Peter Cleer, of Maryland:

APPROVED, MARCH 2, 1831.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be authorized and directed to place the name of Peter Cleer on the roll of revolutionary pensions, and cause him to be paid at the rate of eight dollars per month, to commence on the nineteenth day of December, one thousand eight hundred and twenty-five.

[119.]

[*Laws of the U. S., Pamphlet Edition for 1831.*]

CHAP. 79. An act for the relief of Jonathan Crocker.

APPROVED, MARCH 2, 1831.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

the Secretary of War be, and he hereby is, directed to restore the name of Jonathan Crocker to the roll of revolutionary pensioners, and to cause him to be paid at the rate of eight dollars per month, from and after the third day of March, one thousand eight hundred and twenty-nine.

[120.]

[*Laws of the U. S., Pamphlet Edition for 1831.*]

CHAP. 81. An act for the relief of Hugh Barnes.

APPROVED, MARCH 2, 1831.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he hereby is, directed to cause to be paid to Hugh Barnes, an invalid pensioner of the United States, an arrearage of pension withheld from him, in consequence of a mistake made by the examining surgeon in September, one thousand eight hundred and twenty-one, being in addition to what he has received, at the rate of ten dollars per month, from the fourth day of September, one thousand eight hundred and twenty-one, to the twenty-second day of September, one thousand eight hundred and twenty-four, when his pension of twenty dollars per month was restored to him.

[121.]

[*Laws of the U. S., Pamphlet Edition for 1831.*]

CHAP. 82. An act for the relief of Henry Becker.

APPROVED, MARCH 2, 1831.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be authorized and directed to place Henry Becker on the list of invalid pensioners, at the rate of eight dollars per month, to commence on the first day of January, one thousand eight hundred and twenty-six.

[122.]

[*Laws of the U. S., Pamphlet Edition for 1831.*]

CHAP. 88. An act for the relief of Samuel Nowell.

APPROVED, MARCH 2, 1831.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War cause to be paid to Samuel Nowell, of New Hampshire, a pension of eight dollars per month during his natural life, commencing on the fourth day of March, one thousand eight hundred and thirty.

[122.]

[*Laws of the U. S., Pamphlet Edition for 1831.*]

CHAP. 92. An act for the relief of James Belger.

APPROVED, MARCH 2, 1831.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and required to place the name of James Belger on the list of invalid pensioners, and to pay him at the rate of four dollars per month, to commence on the first day of January, one thousand eight hundred and thirty-one.*

[123.]

[*Laws of the U. S., Pamphlet Edition for 1831.*]

CHAP. 93. An act to rectify the mistake in the name of William Turney, an invalid pensioner.

APPROVED, MARCH 2, 1831.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the name "William Turney" in the fifth section of the act, approved the twentieth of May, eighteen hundred and thirty, entitled "An act for the relief of sundry revolutionary and other officers and soldiers, and for other purposes," be changed to William Turney, and that the said William Turney, and no other, may have and enjoy all the relief and benefit granted by the said act to "William Turney."*

[124.]

[*Laws of the U. S., vol. 8, page 431.*]

CHAP. 504. An act for the relief of Thomas Porter, of Indiana.

APPROVED, MARCH 2, 1831.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and required to place the name of Thomas Porter on the list of invalid pensioners, and to pay him at the rate of eight dollars per month, to commence on the first day of January, eighteen hundred and thirty-one.*

[125.]

[*Laws of the U. S., vol. 8, page 432.*]

CHAP. 508. An act for the relief of the legal representatives of Daniel McIntire, deceased.

APPROVED, MARCH 2, 1831.

SEC. 1 *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be directed to pay to the legal representatives of Daniel McIntire, late an invalid pensioner, deceased, the sum due said pensioner at his death.*

[126.]

[*Laws of the U. S., Pamphlet Edition for 1831.*]

CHAP. 120. An act granting a pension to Martin Miller.

APPROVED, MARCH 3, 1831.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be authorized and directed to place the name of Martin Miller on the list of revolutionary pensioners, at the rate of eight dollars per month, to commence on the first day of January, one thousand eight hundred and twenty-eight.*

[127.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 20. An act granting a pension to Jared Cone.

APPROVED, FEBRUARY 18, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and required to place the name of Jared Cone upon the list of revolutionary pensioners, and to pay him at the rate of eight dollars per month, commencing on the first day of January, one thousand eight hundred and thirty.*

[128.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 26. An act making appropriations for the revolutionary and other pensioners of the United States, for the year one thousand eight hundred and thirty-two.

APPROVED, FEBRUARY 24, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

the following sums be appropriated for the pensioners of the United States, for the year one thousand eight hundred and thirty-two:

For the revolutionary pensioners, nine hundred and eighty-seven thousand five hundred and four dollars.

For the invalid pensioners, in addition to the sum of one hundred and forty thousand five hundred and thirty-two dollars in the treasury, one hundred and sixty-five thousand and thirty-nine dollars.

For pensions to widows and orphans, three thousand dollars.

[129.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 126. An act* supplementary to the "Act for the relief of certain surviving officers and soldiers of the revolution."

1. All who have served two years to receive full pay according to their rank, not to exceed captain's pay: All who have served not less than six months to receive an annuity proportioned to term of service. 2. No one already a pensioner to receive benefits of this act until he relinquishes former pension. 3. Where to be paid: No foreign officer entitled—evidence of title: Pay not transferable. 4. Payments when to be made: In case of death, to widow or children. 5. Service in navy to entitle to benefits of this act.

APPROVED, JUNE 7, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That each of the surviving officers, non-commissioned officers, musicians, soldiers, and Indian spies, who shall have served in the continental line, or State troops, volunteers or militia, at one or more terms, a period of two years, during the war of the revolution, and who are not entitled to any benefit under the act for the relief of certain surviving officers and soldiers of the revolution, passed the fifteenth day of May, eighteen hundred and twenty-eight, be authorized to receive, out of any money in the treasury not otherwise appropriated, the amount of his full pay in the said line, according to his rank, but not exceeding in any case the pay of a captain in the said line; such pay to commence from the fourth day of March, one thousand eight hundred and thirty-one, and shall continue during his natural life; and that any such officer, non-commissioned officer, musician, or private, as aforesaid, who shall have served in the continental line, State troops, volunteers, or militia, a term or terms in the whole less than the above period, but not less than six months, shall be authorized to receive out of any unappropriated money in the treasury, during his natural life, each according to his term of

*This act of the 7th June, 1832, which has brought about 30,000 additional pensioners on the roll, has been transferred for execution from the Secretary of the Treasury to the Secretary of War, by "resolution" of 28th June, 1832, for which see page 172, post: see also "resolution" of March 2, 1833, page 177, post.

service, an amount bearing such proportion to the annuity granted to the same rank for the service of two years, as his term of service did to the term aforesaid; to commence from the fourth day of March, one thousand eight hundred and thirty-two.

SEC. 2. *And be it further enacted*, That no person, receiving any annuity or pension under any law of the United States providing for revolutionary officers and soldiers, shall be entitled to the benefits of this act, unless he shall first relinquish his further claim to such pension; and in all payments under this act, the amount which may have been received under any other act, as aforesaid, since the date at which the payments under this act shall commence, shall first be deducted from such payment.

SEC. 3. *And be it further enacted*, That the pay allowed by this act shall, under the direction of the Secretary of the Treasury, be paid to the officer, non-commissioned officer, musician, or private entitled thereto, or his or their authorized attorney, at such places and times as the Secretary of the Treasury may direct, and that no foreign officer shall be entitled to said pay, nor shall any officer, non-commissioned officer, musician, or private, receive the same until he furnish the said Secretary satisfactory evidence that he is entitled to the same, in conformity to the provisions of this act: and the pay hereby allowed shall not be in any way transferable or liable to attachment, levy, or seizure, by any legal process whatever, but shall inure wholly to the personal benefit of the officer, non-commissioned officer, musician, or soldier entitled to the same.

SEC. 4. *And be it further enacted*, That so much of the said pay as accrued before the approval of this act, shall be paid to the person entitled to the same as soon as may be, in the manner and under the provisions above mentioned; and the pay which shall accrue thereafter, shall be paid semi-annually, in the manner above directed; and, in case of the death of any person embraced by the provisions of this act, or of the act to which it is supplementary, during the period intervening between the semi-annual payments directed to be made by said acts, the proportionate amount of pay which shall accrue between the last preceding semi-annual payment and the death of such person, shall be paid to his widow, or if he leave no widow, to his children.

SEC. 5. *And be it further enacted*, That the officers, non-commissioned officers, mariners, or marines, who served for a like term in the naval service, during the revolutionary war, shall be entitled to the benefits of this act, in the same manner as is provided for the officers and soldiers of the army of the revolution.

[130.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 131. An act to authorize the President to raise mounted volunteers for the defence of the frontier.

4. Provision in case of disability: Corps subject to rules and articles of war.

APPROVED, JUNE 15, 1832.

SEC. 4. *And be it further enacted*, That the officers, non-commissioned officers, and privates, raised pursuant to this act, shall be entitled to the like compensation, in case of disability by wounds or otherwise, incurred in the service, as has heretofore been allowed to officers, non-commissioned officers, and privates in the military establishment of the United States; and shall be subject to the rules and articles of war, and such regulations as have been or shall be established according to law for the government of the army of the United States, as far as the same may be applicable to the said rangers within the intent and meaning of this act, for the protection and defence of the north-western frontier of the United States.

[131.]

[*Laws of the U. S., vol. 8, page 592.*]

CHAP. 718. An act for the relief of the heirs and legal representatives of Dr. Samuel J. Axson, deceased.

1. Samuel J. Axson, revolutionary officer, his heirs allowed his commutation.

APPROVED, JUNE 15, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the proper accounting officers of the treasury be, and they are hereby, authorized and directed to pay out of any money in the treasury not otherwise appropriated, to the heirs and legal representatives of Dr. Samuel J. Axson, five years' full pay as a surgeon in the revolutionary war; which five years' full pay is the commutation of half pay for life,* together with such interest thereon as would now be due if a certificate for such commutation had been issued at the close of the war, and subscribed under the principles of the funding act, and all dividends thereon were now remaining in the treasury unpaid.

* It will be perceived by this act, and other private acts hereafter given, that the right to commutation established by the resolution of March 23d, 1783, No. [12.]—ante, continues, and will continue to be valid, whilst there is a just claim remaining unsatisfied. In this point of view, alone, it would have tended to embarrass those claims, were that resolution and these private acts omitted in this compilation, as *obsolete*; and like reasons have warned us not to make any omissions that a careful research could enable us to avoid. Nevertheless, this and other principles of legislative policy being sufficiently established, and the policy of multiplying the legislative provisions for pension claims in separate acts, instead of including the provisions in one general act for that purpose yearly, having been gradually substituted for the olden usage, we have concluded to discontinue the insertion of those private acts from 1835, when that change became confirmed.

[132.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 170. An act for the relief of John H. Wendell, a captain in the revolutionary war.

1. Act of May 15, 1828, (No. [96.]—ante,) extended to John H. Wendell.

APPROVED, JULY 4, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the benefits of the provisions of the act entitled "An act for the relief of certain surviving officers and soldiers of the army of the revolution," passed May fifteenth, eighteen hundred and twenty-eight, be extended to John H. Wendell, a captain in the army of the revolution; and that he be paid and accounted with in the same manner as if he had already complied with the requisitions of the fourth section thereof; to be paid out of any money in the treasury not otherwise appropriated: *Provided, That, in paying and accounting with the said John H. Wendell, any sums of money paid to him under the act passed the twenty-seventh [twenty-eighth] day of May, eighteen hundred and thirty, entitled "An act for the relief of John H. Wendell, a captain in the revolutionary war," be first deducted; and any further payments under the said last mentioned act shall cease and be discontinued.*

[133.]

[*Laws of the U. S., vol. 8, page 653.*]

CHAP. 759. An act to provide for liquidating and paying certain claims of the State of Virginia.

1. Money refunded to Virginia for payments to her revolutionary officers. 2. Judgments against Virginia for half pay, to be paid by the United States: Designation of officers entitled to half pay. 3. Claims not prosecuted to judgment to be paid.

APPROVED, JULY 5, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the proper accounting officers of the treasury do liquidate and pay the accounts of the Commonwealth of Virginia against the United States, for payments to the officers commanding in the Virginia line in the war of the revolution, on account of the half pay for life promised the officers aforesaid by that Commonwealth, the sum of one hundred and thirty-nine thousand five hundred and forty-three dollars and sixty-six cents.

SEC. 2. *And be it further enacted, That* the Secretary of the Treasury be, and he is hereby, required and directed to pay to the State of Virginia the amount of the judgments which have been rendered against the said State, for and on account of the promise contained in an act passed by the General Assembly of

the State of Virginia, in the month of May, Anno Domini one thousand seven hundred and seventy-nine, and in favor of the officers or representatives of officers of the regiments and corps hereinafter recited, and not exceeding in the whole the sum of two hundred and forty-one thousand three hundred and forty-five dollars, to wit:

First. To the officers, or their legal representatives, of the regiment commanded by the late Colonel George Gibson, the amount of the judgments which they have obtained, and which are now unsatisfied.

Second. To the officers, or their legal representatives, of the regiment denominated the second State regiment, commanded, at times, by Colonels Brent and Dabney, the amount of the judgments which they have obtained, and which are now unsatisfied.

Third. To the officers, or their legal representatives, of the regiments of Colonels Clark and Crockett, and Captain Rogers's troop of cavalry, who were employed in the Illinois service, the amount of the judgments which they have obtained, and which are now unsatisfied.

Fourth. To the officers, or their legal representatives, serving in the regiment of State artillery commanded by the late Colonel Marshall, and those serving in the State garrison regiment commanded by Colonel Muter, and serving in the State cavalry commanded by Major Nelson, the amount of the judgments which they have obtained, and which are now unsatisfied.

Fifth. To the officers, or their legal representatives, who served in the navy of Virginia during the late war of the revolution, the amount of the judgments which they have obtained, and which are now unsatisfied.

Sec. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby directed and required, to adjust and settle those claims for half pay of the officers of the aforesaid regiments and corps, which have not been paid or prosecuted to judgments against the State of Virginia, and for which said State would be bound on the principles of the half pay cases already decided in the Supreme Court of Appeals of said State; which several sums of money herein directed to be settled or paid shall be paid out of any money in the treasury not otherwise appropriated by law.

[134.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 177. An act for the relief of Edward S. Meeder.

1. Certain arrearages to be paid to Edward S. Meeder: Pension increased.

APPROVED, JULY 9, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

the Secretary of War be authorized and directed to pay to Edward S. Meeder, an invalid pensioner of the United States, an arrearage, at the rate of six dollars per month, from the date of his discharge from the army to the seventh day of September, one thousand eight hundred and twenty, the time at which his pension has heretofore been allowed to commence; and that the pension of the said Edward S. Meeder be increased to the rate of eight dollars from and after the fourth day of September, one thousand eight hundred and thirty.

[135.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 178. An act granting a pension to William Scott.

APPROVED, JULY 9, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, the Secretary of War be, and he hereby is, directed to place on the pension roll of the United States the name of William Scott, of the county of Knox, and State of Tennessee; and that there be allowed to said Scott the sum of eight dollars per month, during his natural life; to commence on the fourth day of December, in the year one thousand eight hundred and thirty.

[136.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 179. An act for the relief of John Bryant and George W. Howard.

1. John Bryant's pension to commence from the date of his discharge. 2. Allowance to George W. Howard.

APPROVED, JULY 9, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the pension allowed to John Bryant, in consequence of a severe wound received in the battle of twenty-third December, one thousand eight hundred and fourteen, near New Orleans, shall commence from the time of his discharge from the service, and be paid out of any money in the treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That the Secretary of War be, and he hereby is, directed to cause payment to be made to George W. Howard, an invalid pensioner of the United States, of the difference between the amount of pension at five dollars thirty-three and a third cents per month, which he has actually received at the several agencies where it has been paid, and the

amount to which he was entitled at eight dollars per month, from the time at which his pension for total disability commenced to the time at which he was last reported to be totally disabled by the examining physicians, under the "Act regulating the payments to invalid pensioners," approved the third of March, one thousand eight hundred and nineteen.*

[137.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 233. An act for the relief of the invalid pensioners of the United States.

APPROVED, JULY 14, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* an act entitled "An act regulating the payments to invalid pensioners," approved the third day of March, one thousand eight hundred and nineteen,† be, and the same is hereby, repealed.

[138.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 234. An act to amend the act entitled "An act for the relief of certain surviving officers and soldiers of the army of the revolution."

1. Third section of act of 15th May, 1828, not to embrace invalid pensioners, &c.

APPROVED, JULY 14, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the third section of the act entitled "An act for the relief of certain surviving officers and soldiers of the army of the revolution," approved the fifteenth day of May, one thousand eight hundred and twenty-eight, shall not be construed to embrace invalid pensioners; and that the pension of invalid soldiers shall not be deducted from the amount receivable by them under the said act.

[139.]

[*Laws of the U. S., vol. 8, page 722.*]

CHAP. 850. An act for the relief of John J. Jacobs.

1. John J. Jacobs, revolutionary officer, commutation pay allowed him, with interest.

APPROVED, JULY 14, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

* See act of that date, No. [70.]—ante.

† See act of that date, No. [70.]—ante.

the Secretary of the Treasury be authorized and directed to pay to John J. Jacobs, out of any money in the treasury not otherwise appropriated, the amount of his commutation for half pay as a lieutenant in the army of the United States, on the continental establishment, during the revolutionary war, with such interest thereon as that the principal and interest will amount to the sum to which the said John J. Jacobs would have been entitled if a final settlement certificate had been issued for his said commutation, and the same had by him been subscribed to the loan created for funding the debt of the United States, by the acts of one thousand seven hundred and ninety: *Provided*, That any sum found due by him to the United States be first deducted from the amount of said commutation.

[140.]

[*Laws of the U. S.*, vol. 8, page 724.]

CHAP. 855. An act for the relief of the heirs of Thomas Davenport.

1. Thomas Davenport, revolutionary officer, his heirs allowed commutation pay, with interest.

APPROVED, JULY 14, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the proper accounting officers of the treasury be, and they are hereby, required to settle and adjust the account of the heirs of Thomas Davenport, and allow to them five years' full pay for his services as a captain in the revolutionary war, with such interest thereon as the party would have been entitled to if a final settlement certificate had been issued for the amount of his commutation, and the same had been subscribed to the loan created by the act of one thousand seven hundred and ninety, providing for the funding of the debt of the United States; which five years' full pay is the commutation of his half pay for life; to be paid out of any money in the Treasury not otherwise appropriated.

[141.]

[*Laws of the U. S.*, vol. 8, page 735.]

CHAP. 879. An act for the relief of Sarah Easton and Dorothy Storer.

1. Colonel Harrison, revolutionary officer, his heirs paid interest on his commutation of half pay.

APPROVED, JULY 14, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the proper accounting officers of the treasury be, and they hereby are, directed, in adjusting and settling the account of Sarah

Easton and Dorothy Storer, for the commutation granted them as children and heirs-at-law of the late Colonel Robert Hanson Harrison, to allow and pay to them such sum, as interest, as would have accrued on such commutation according to the regulations prescribed for funding and paying the domestic debt, had a certificate for such commutation been issued at the close of the war, and been in due time subscribed to said fund, and certificates of stock for the same regularly issued therefor, and all dividends thereon were now remaining in the treasury unpaid, to be paid out of any money in the treasury not otherwise appropriated.

[142.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 260. An act for the relief of certain invalid and other pensioners therein named.

1. Certain names to be placed on invalid pension roll. 2. Name of James Miller to be reinscribed on said roll. 3. Name of John R. Rappleye to be reinscribed. 4. Name of Robert Kane to be reinscribed. 5. Name of Jane Mary Lawrence to be reinscribed. 6. J. P. Preston to be allowed the amount which would have been due. 7. Russel Atwater to be placed on list of invalid pensioners.

APPROVED, JULY 14, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, directed to place on the invalid pension roll of the United States, the names of the following persons; whereupon, they, and each of them, shall be entitled to receive the pensions severally set against their names, respectively, during life, that is to say: Zebulon Wade, at the rate of eight dollars per month, commencing on the first day of January, one thousand eight hundred and thirty-one.

Samuel Espie, at the rate of ten dollars per month, in lieu of the pension he now receives, from and after the fourth day of July, one thousand eight hundred and thirty-two.

Asa Hoyt, at the rate of four dollars per month, commencing on the fourth day of January, one thousand eight hundred and thirty.

Benjamin Groun, at the rate of six dollars per month, commencing July twenty-ninth, one thousand eight hundred and twenty-nine.

William Gallop, at the rate of six dollars per month, commencing December eleventh, one thousand eight hundred and twenty-six.

Bartholomew Delapiere, at the rate of twenty dollars per month, commencing December eighteenth, one thousand eight hundred and twenty-six.

Daniel Stoddart, at the rate of six dollars per month, commencing on the first day of January, one thousand eight hundred and thirty.

Edgar Freeman, at the rate of twenty dollars per month, commencing on the fourteenth day of November, one thousand eight hundred and twenty-eight.

SEC. 2. *And be it further enacted*, That the Secretary of War be, and he hereby is, directed to reinscribe the name of John Miller on said pension roll, as on the third day of November, one thousand eight hundred and twelve, at the rate of eight dollars per month from that time to the third day of January, one thousand eight hundred and seventeen, when his name was inscribed thereon, and that the said John Miller be entitled to receive the same arrears of his pension.

SEC. 3. *And be it further enacted*, That the Secretary of War reinscribe the name of John R. Rappleye on said roll, as on the fourth day of March, one thousand eight hundred and twenty-four, at the rate of eight dollars per month, until the third of February, one thousand eight hundred and twenty-nine; and that thereupon he be entitled to receive, as arrears of his pension, the sum of four dollars per month during that time.

SEC. 4. *And be it further enacted*, That the Secretary of War reinscribe the name of Robert Kane on the said pension roll, as of the date of November first, one thousand eight hundred and twenty-eight, at the rate of seventeen dollars per month; and that, thereupon, he be entitled to receive, as arrears of his pension, the sum of nine dollars per month from that date up to the present time; and hereafter the said sum of seventeen dollars per month.

SEC. 5. *And be it further enacted*, That the Secretary of War place on the roll aforesaid the name of Jane Mary Lawrence, the widow of Jonathan Lawrence, an ensign in the service of the United States in the late war, who died of wounds received in the said service, at the rate of seventeen dollars and fifty cents per month, for and during the term of five years from and after the first day of January, one thousand eight hundred and twenty-eight: *Provided*, That said Jane Mary Lawrence shall so long live and remain unmarried; but in the event of her death or intermarriage then the remainder of said pension shall go to such child or children of the deceased as were under sixteen years of age at the time of his death, if any such there were.

SEC. 6. *And be it further enacted*, That the Secretary of War be authorized, upon the application of J. P. Preston, a colonel in the late war, and upon his making proof of his right to be placed upon the invalid pension roll as an officer of the late war, to allow the said Preston the amount which would have been due him had he made his application at the time he received his wound.

SEC. 7. *And be it further enacted*, That the Secretary of War cause to be placed on the list of invalid pensioners the name of Russel Atwater, of Saint Lawrence county, State of New York, and pay to him eight dollars per month from first January, one thousand eight hundred and thirty-two, during his life.

[143.]

[*Laws of the U. S., vol. 8, page 745.*]

No. 9. Resolution in relation to the execution of an act supplementary to the act for the relief of certain surviving officers and soldiers of the revolution.

APPROVED, JULY 14, 1832.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the execution of the act supplementary to the act for the relief of certain surviving officers and soldiers of the revolution, approved June seventh, one thousand eight hundred and thirty-two, the time of imprisonment as a prisoner of war shall be taken and computed as a part of the period of service.

[144.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 287. An act for the relief of certain invalid pensioners.

APPROVED, JULY 16, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, directed to place on the invalid pension roll of the United States the names of the following persons; whereupon they, and each of them, shall be entitled to receive the pensions severally set against their names respectively, during life; that is to say:*

Benjamin Calhoun, at the rate of four dollars per month, commencing on the first day of January, one thousand eight hundred and thirty-two.

Peter Bradly, at the rate of six dollars per month, commencing on the first day of January, one thousand eight hundred and thirty-two.

John P. Reed, at the rate of six dollars per month, commencing on the first day of January, one thousand eight hundred and thirty-two.

Anthony Murrey, at the rate of six dollars per month, commencing on the first day of January, one thousand eight hundred and thirty-two.

[145.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

CHAP. 288. An act for the relief of Grieve Drummond.

1. Amount of pension granted by act of 3d March, 1815, to be paid.

APPROVED, JULY 16, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

there be paid to Grieve Drummond, out of any money in the treasury not otherwise appropriated, the amount of a pension granted to him by an act passed March third, one thousand eight hundred and fifteen; which has been withheld in consequence of his omission to comply with the provisions of the act, passed March third, one thousand eight hundred and nineteen.

[146.]

[*Laws of the U. S., Pamphlet Edition for 1832.*]

No. 4. Resolution transferring certain duties, relating to pensions, from the Treasury to the War Department.

APPROVED, JUNE 28, 1832.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all the duties which devolve upon the Secretary of the Treasury by virtue of an act, approved the seventh of June, one thousand eight hundred and thirty-two, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the army of the revolution," be, and the same are hereby, transferred to the Secretary of War.*

[147.]

[*Laws of the U. S., Pamphlet Edition for 1833.*]

CHAP. 2. An act making appropriations for the revolutionary and other pensioners of the United States, for the year one thousand eight hundred and thirty-three.

APPROVED, JANUARY 14, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be appropriated to be paid out of any money in the treasury not otherwise appropriated, for the pensioners of the United States, for the year one thousand eight hundred and thirty-three.*

For the revolutionary pensioners, under the several acts prior to that of the seventh of June, one thousand eight hundred and thirty-two, six hundred and twenty-four thousand six hundred and eighty-five dollars, in addition to an unexpended balance of three hundred and six thousand five hundred and forty dollars.

For the invalid pensions, in addition to the sum of two hundred and one thousand nine hundred and forty-two dollars in the treasury, ninety-eight thousand seven hundred and thirty-two dollars.

For pensions to widows and orphans, five thousand five hundred dollars.

* See act of that date, No. [129.]—ante.

[148.]

[*Laws of the U. S., Pamphlet Edition for 1833.*]

CHAP. 14. An act for the relief of William A. Tennille, of Georgia.

APPROVED, JANUARY 30, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That William A. Tennille, of Georgia, be placed on the roll of invalid pensioners, and be paid at the rate of eight dollars per month, commencing on the first day of January, one thousand eight hundred and fourteen.

[149.]

[*Laws of the U. S., Pamphlet Edition for 1833.*]

CHAP. 26. An act for the relief of James Brownlee.

APPROVED, FEBRUARY 9, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the treasury not otherwise appropriated, to James Brownlee, sole heir of Alexander Brownlee, an ensign in the army of the revolution, and slain in the battle of Guilford, the seven years' half pay to which his widow was entitled by a resolve of Congress, passed August twenty-fourth, one thousand seven hundred and eighty; together with such interest thereon as would now be due if a certificate for the said seven years' half pay had been issued and subscribed under the principles of the funding act, and no payments made thereon.

[150.]

[*Laws of the U. S., vol. 8, page 758.*]

CHAP. 914. An act for the relief of the administrator of the late Colonel John Thornton, deceased.

1. John Thornton, revolutionary officer, commutation pay allowed his heirs, with interest.

APPROVED, FEBRUARY 9, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the proper accounting officers of the treasury do settle, adjust, and pay over to his administrator the account of the late Colonel John Thornton, deceased, for five years' full pay, in commutation of the half pay for life, promised by the resolve of Congress to the officers of the continental line in the war of the revolution

together with such interest thereon as would now be due if a certificate for such commutation had been issued and subscribed under the principles of the funding act, and no payments made thereon; to be paid out of any money in the treasury not otherwise appropriated. And the said administrator shall pay to the widow of the said Thornton one-fourth part of the money payable under this act, and the remainder he shall pay over or distribute among the persons entitled thereto, according to the laws of the Commonwealth of Virginia.

[151.]

[*Laws of the U. S., Pamphlet Edition for 1833.*]

CHAP. 30. An act to amend an act entitled "An act supplementary to an act for the relief of certain surviving officers and soldiers of the revolution."

1. Invalid pensioners not embraced in second section of former act.

APPROVED, FEBRUARY 19, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the second section of the act entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the revolution," approved the 7th day of June, one thousand eight hundred and thirty-two, shall not be construed to embrace invalid pensioners; and that the pensions of invalid soldiers shall not be deducted from the amount receivable by them under the said act.

[152.]

[*Laws of the U. S., Pamphlet Edition for 1833.*]

CHAP. 45. An act for the relief of the widow of Joseph Knight.

APPROVED, FEBRUARY 20, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he hereby is, directed to pay, out of any money in the treasury not otherwise appropriated, to the widow of Joseph Knight, late a soldier in Captain Benjamin Price's company, in the corps of artillery, the amount due to said Joseph at the time of his decease, by virtue of the certificate of John Gale, assistant surgeon of the corps of the United States artillery, now on file at the War Department.

[153.]

[*Laws of the U. S., vol. 8, page 774.*]

CHAP. 941. An act for the relief of the heirs of John Wilson, deceased.

1. John Wilson, revolutionary officer, his heirs allowed seven years' half pay, with interest.

APPROVED, FEBRUARY 27, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the treasury not otherwise appropriated, to the heirs of John Wilson, deceased, a lieutenant in the army of the revolution, and slain in the battle of the Eutaw Springs, the seven years' half pay allowed by the resolution of Congress, passed August the twenty-fourth, one thousand seven hundred and eighty, together with such interest thereon as would now be due if a certificate for said seven years' half pay had been issued and subscribed under the provisions of the funding act, and no payment made thereon.

[154.]

[*Laws of the U. S., Pamphlet Edition for 1833.*]

CHAP. 103. An act for the relief of certain invalid pensioners, therein named.

1. The Secretary of War to place certain names on the invalid pension roll.

APPROVED MARCH 2, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, directed to place on the invalid pension roll of the United States, the names of the following persons; whereupon they, and each of them, shall be entitled to receive the pensions severally set against their names, respectively, during life, that is to say:

Jesse Cunningham, at the rate of eight dollars per month, commencing on the first day of January, one thousand eight hundred and thirty-one.

Abijah Fisk, at the rate of six dollars per month, to commence on the first day of January, one thousand eight hundred and twenty-five.

Oliver Herrick, at the rate of ten dollars per month, commencing on the first day of January, one thousand eight hundred and twenty-two.

Thomas Philips, at the rate of eight dollars per month, commencing on the fourth day of September, one thousand eight hundred and twenty.

Benjamin Dow, of the State of Maine, late a soldier in the fourth regiment of infantry, at the rate of eight dollars per month,

to commence on the first day of January, one thousand eight hundred and thirty.

Heard Bracket, at the rate of eight dollars per month, commencing January first, one thousand eight hundred and thirty.

Joseph Linn, at the rate of six dollars per month, commencing on the first day of January, one thousand eight hundred and thirty-two.

Robert McCausland, at the rate of four dollars per month, commencing on the first day of January, one thousand eight hundred and twenty-one.

George Field, at the rate of four dollars per month, commencing on the first day of January, one thousand eight hundred and twenty-nine.

Moses Cremeens, of Galia county, of Ohio, at the rate of six dollars per month, from January first, one thousand eight hundred and thirty-two.

William Ledman, at the rate of six dollars per month, commencing on the twenty-sixth day of March, one thousand eight hundred and thirty.

John Taylor, as on the first day of January, one thousand eight hundred and sixteen, at the rate of eight dollars per month, up to the time when his name was inscribed on the invalid pension roll; to be paid to him as arrears of his pension.

Roswell Hunt, at the rate of twenty dollars per month, commencing January first, one thousand eight hundred and thirty-one.

Martin Smith, as of the twenty-fifth day of June, one thousand eight hundred and seventeen, at the rate of six dollars per month, until his name was inscribed on the pension roll aforesaid, namely, the eleventh day of March, one thousand eight hundred and thirty; to be paid to him as arrears of his said pension.

Henry Clicke, at the rate of four dollars per month, commencing January first, one thousand eight hundred and thirty-one.

Asher Huntington, from the time when discharged from service, at the rate of four dollars per month, until his name was inscribed on the pension roll, in the year one thousand eight hundred and thirty-one; to be paid to him as arrears of his pension.

William Ricketts, of Indiana, at the rate of eight dollars per month, commencing the first of January, one thousand eight hundred and thirty-three.

SEC. 2. *And be it further enacted*, That the several sums necessary to carry into effect the provisions of this act. shall be paid out of any money in the treasury not otherwise appropriated.

[155.]

[*Laws of the U. S., Pamphlet Edition for 1833.*]

No. 2. A Resolution in relation to the execution of the act supplementary to the "Act for the relief of certain surviving officers and soldiers of the revolution."

APPROVED, MARCH 2, 1833.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the execution of the act supplementary to the "Act for the relief of certain surviving officers and soldiers of the revolution," approved June seventh, one thousand eight hundred and thirty-two, wherever it shall be made to appear that any applicant for a pension under said act entered the army of the revolution, in pursuance of a contract with the Government made previous to the eleventh day of April, one thousand seven hundred and eighty-three, and continued in service until after that period, it shall be the duty of the Secretary of War to compute the period of any such applicant's service, from the time he then entered the army, and until the date of the definitive treaty of peace, and to allow him a pension accordingly.

[156.]

[*Laws of the U. S., vol. 8, page 819.*]

CHAP. 965. An act for the more perfect defence of the frontiers.

1. Mounted rangers disbanded, and a regiment of dragoons raised: Its organization.
3. To serve on horse or foot, subject to rules and articles of war: Provision for wounds and disabilities. 5. Appropriation.

APPROVED, MARCH 2, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in lieu of the battalion of mounted rangers authorized by the act of the fifteenth of June, one thousand eight hundred and thirty-two, there be established a regiment of dragoons, to be composed and organized as follows, &c. * * * * *

SEC. 3. *And be it further enacted,* That the said regiment of dragoons shall be liable to serve on horse or foot, as the President may direct; shall be subject to the rules and articles of war, be recruited in the same manner, and with the same limitations; that the officers, non-commissioned officers, musicians, farriers, and privates, shall be entitled to the same provisions for wounds and disabilities, the same provisions for widows and children, and the same allowances and benefits in every respect, as are allowed the other troops constituting the present military peace establishment.

SEC. 4. *And be it further enacted,* That the President of the United States be authorized to carry into effect this act, as soon

as he may deem it expedient, and to discharge the present battalion of mounted rangers, on their being relieved by the said regiment of dragoons.

SEC. 5. *And be it further enacted*, That the sum required to carry into effect the provisions of this act is hereby appropriated, in addition to the appropriations for the military establishment for the year one thousand eight hundred and thirty-three.

[157.]

[*Laws of the U. S., vol. 8, page 843.*]

CHAP. 988. An act for the relief of John Thomas and Peter Foster.

1. John Thomas, revolutionary officer, commutation pay allowed him with interest.
2. Peter Foster, revolutionary officer, commutation pay allowed him with interest.

APPROVED MARCH 2, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That he proper accounting officers of the treasury do settle the account of John Thomas, and allow him five years' full pay as a captain of infantry of the revolutionary army, in the Virginia line, on continental establishment, with such interest thereon as would have been payable to the said John Thomas, if a certificate had been given him for the amount of said commutation, and the same had by him been subscribed to the funded debt of the United States, under the act of one thousand seven hundred and ninety.

SEC. 2. *And be it further enacted*, That the same accounting officers do settle the account of Peter Foster, a lieutenant of infantry of the revolutionary army, of the Virginia line, and allow him five years' full pay as such lieutenant, with such interest thereon as is directed in the foregoing section to be allowed to John Thomas, and that the said several sums of money and interest be paid out of any money in treasury not otherwise appropriated.

[158.]

[*Laws of the U. S., vol. 8, page 845.*]

CHAP. 994. An act for the relief of Eleanor Courts, widow of Richard Henly Courts.

1. Dr. Richard Henly Courts, revolutionary officer, money due to be paid to his widow.

APPROVED, MARCH 2, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the proper accounting officers of the treasury pay to Eleanor Courts, widow and legal representative of Richard Henly Courts, a surgeon's mate in the revolutionary army, out of any money in

the treasury not otherwise appropriated, the account of the said Richard Henly Courts, for twenty-two months' service and rations as such surgeon's mate, together with such interest thereon as would now be due if a certificate of the amount of said account had been issued, and the same had been subscribed to the loan created by the act of one thousand seven hundred and ninety, providing for the funding of the debt of the United States.

[159.]

[*Laws of the U. S., vol. 8, page 847.*]

CHAP. 997. An act for the relief of the heirs of Colonel John Ely, deceased.

1. Col. John Ely, revolutionary officer, paid for medical services, with interest.

APPROVED, MARCH 2, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be allowed to the legal heirs of Colonel John Ely, deceased, who was a colonel in the Connecticut line of the army of the revolution, the sum of sixty dollars per month for his services, expenses, and travel in discharging the duties of a physician and surgeon to sick and wounded prisoners of the American army, dispersed on various parts of Long Island, from the ninth day of December, one thousand seven hundred and seventy-seven, to the twenty-fifth day of December, one thousand seven hundred and eighty; and that the amount herein allowed be paid to said heirs, together with such interest thereon as would now be due had a certificate therefor been issued on the said twenty-fifth day of December, one thousand seven hundred and eighty, and said certificate been subscribed to the debt of the United States, and funded under the act of August the fourth, one thousand seven hundred and ninety, and all dividends thereon were now outstanding and unpaid; to be paid out of any money in the treasury not otherwise appropriated.

[160.]

[*Laws of the U. S., vol. 8, page 849.*]

CHAP. 1000. An act for the relief of Thomas Triplet.

1. Thomas Triplet, revolutionary officer, five years' full pay allowed him, with interest.

APPROVED, MARCH 2, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the proper accounting officers of the treasury do settle the account of Thomas Triplet, (a captain of infantry in the revolu-

tionary army,) and allow him five years' full pay as such captain, with such interest as would have become due thereon had a certificate for the same been duly issued, and afterwards, in due time, subscribed to the funded debt of the United States; and that the same be paid out of any money in the treasury not otherwise appropriated.

[161.]

[*Laws of the U. S., vol. 8, page 856.*]

CHAP. 1019. An act for the relief of Joseph Gaston, of South Carolina.

APPROVED, MARCH 2, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be directed to place the name of Joseph Gaston, of Chester District, in the State of South Carolina, on the roll of invalid pensioners; and pay to him eight dollars per month during his natural life, commencing on the first of January, eighteen hundred and thirty-three.

[162.]

[*Laws of the U. S., vol. 8, page 860.*]

CHAP. 1031. An act for the relief of James Gibbon, and Sarah Price, widow of William Price, and Philip Slaughter.

1. James Gibbon, revolutionary officer, five years' full pay allowed him, with interest.
2. William Price, revolutionary officer, interest on his commutation pay allowed his widow.
3. Philip Slaughter, interest on commutation allowed him.

APPROVED, MARCH 2, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the proper accounting officers of the treasury be, and they hereby are authorized and required to settle and adjust the account of James Gibbon, a captain of the army of the revolution, and allow to him five years' full pay, which five years' full pay is the commutation of his half pay for life, with such interest thereon as would have been payable to the said James Gibbon if a certificate had been given him for the amount of said commutation, and the same had by him been subscribed to the funded debt of the United States, under the act of one thousand seven hundred and ninety, to be paid out of any money in the treasury not otherwise appropriated.

SEC. 2. *And be it further enacted,* That the proper accounting officers of the Treasury Department do also settle and adjust the account of William Price, late a lieutenant in the Virginia line

in continental establishment, and pay to his widow, Sarah Price, whatever sum of money would have accrued and been payable to him as interest and dividends thereon, had he, the said Price, received a certificate for the amount of five years' full pay as a lieutenant of infantry, (according to the resolves of Congress of March, one thousand seven hundred and eighty-three,) and had subscribed the said certificate to the public debt, in conformity with the provisions of the acts of Congress of the fourth and fifth August, one thousand seven hundred and ninety, which sum of money so found to be due as interest or dividends, and no more, shall be paid out of any money in the treasury not otherwise appropriated.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be authorized and directed to pay to Philip Slaughter, out of any money in the treasury not otherwise appropriated, interest upon the commutation of half pay heretofore allowed him.

[163.]

[*Laws of the U. S., vol. 9, page 16.**]

CHAP. 15. An act making appropriations for the revolutionary and other pensioners of the United States, for the year one thousand eight hundred and thirty-four.

APPROVED, FEBRUARY 27, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the treasury not otherwise appropriated, for the pensioners of the United States, for the year one thousand eight hundred and thirty-four:

For the revolutionary pensioners under the several acts prior to that of the seventh of June, one thousand eight hundred and thirty-two, in addition to an unexpended balance of one hundred and forty-four thousand six hundred and twenty-three dollars and twenty-one cents, the sum of nine hundred and one thousand six hundred and fifty-six dollars.

For the invalid pensioners under the various laws, in addition to the unexpended balance of one thousand eight hundred and forty-nine dollars and seventy cents, the sum of three hundred and six thousand one hundred and twenty-five dollars.

For pensions to widows and orphans, seven thousand five hundred dollars.

*Vol. 9 is the continuation, ordered by resolution of the House of Representatives, June 30, 1834, and printed by Langtree & O'Sullivan.

[164.]

[*Laws of the U. S., vol. 9, page 43.*]

CHAP. 66. An act for the relief of Lucy Loomis.

APPROVED, JUNE 19, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be paid out of any money in the treasury not otherwise appropriated, to Lucy Loomis, widow of Jesse Loomis, late a lieutenant in the militia service of the United States, and who died before the expiration of his term of service, by occasion of sickness contracted in that service, but was, by permission and advice of his attending physician, removed to his family before his death, the full amount to which she would have been entitled had he died in camp and before the expiration of his term of service.

[165.]

[*Laws of the U. S., vol. 9, page 45.*]

CHAP. 70. An act granting pensions to certain persons therein named.

1. Pensions granted to Joseph Webb, John Kincaid, John Moody, David A. Ames, Robert Milligan, Jeremiah Keyes, Nehemiah Ward, Abner Merrill, John Couch, Daniel Fuller, Benjamin Burlingame, and William Tozier. 2. Pensions granted to John Allen and Joseph Prescott.

APPROVED, JUNE 25, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, directed to place on the invalid pension roll of the United States, the names of the following persons; whereupon they, and each of them, shall be entitled to receive the pensions severally set against their names, respectively, during life; that is to say:

Joseph Webb, jr., at the rate of six dollars per month, commencing January first, one thousand eight hundred and thirty-two.

John Kincaid, at the rate of six dollars per month, commencing January first, one thousand eight hundred and thirty-two.

John Moody, at the rate of six dollars per month, commencing March fourth, one thousand eight hundred and thirty-two.

David A. Ames, at the rate of four dollars per month, commencing on the first day of January, eighteen hundred and thirty.

Robert Milligan, at four dollars a month, commencing January first, one thousand eight hundred and thirty-three.

Jeremiah Keyes, at six dollars a month, commencing on the third of December, one thousand eight hundred and thirty-two.

Nehemiah Ward, at four dollars a month, commencing January first, one thousand eight hundred and twenty-one.

Abner Merrill, at the rate of four dollars per month, commencing January first, one thousand eight hundred and thirty-two.

John Couch, jr., an arrearage of pension at the rate of four dollars per month, from the nineteenth day of April, eighteen hundred and twenty-one, to the nineteenth day of December, eighteen hundred and twenty-eight.

Daniel Fuller, at the rate of eight dollars per month, commencing on the first day of January, one thousand eight hundred and thirty-two.

Benjamin Burlingame, at the rate of eight dollars per month, to commence on the twelfth day of December, one thousand eight hundred and thirty-one.

William Tozier, at the rate of six dollars per month, commencing on the fourth day of March, eighteen hundred and thirty-one.

SEC. 2. *And be it further enacted*, That the Secretary of War be, and he hereby is, authorized and directed to place the name of John Allen, of the State of Maine, on the list of invalid pensioners, and to pay him a pension at the rate of four dollars a month, commencing on the first day of January, eighteen hundred and and twenty, and to continue during his natural life; and that he also cause the name of Joseph Prescott, of the State of Maine, to be placed on the invalid pension list, and that he pay him a pension at the rate of four dollars a month, commencing on the first day of January, eighteen hundred and eighteen, and to continue during his natural life.

SEC. 3. *And be it further enacted*, That said sums be paid out of any money in the treasury not otherwise appropriated.

[166.]

[*Laws of the U. S., vol. 9, page 93.*]

CHAP. 117. An act for the relief of Benjamin Jacobs, of Samuel Bayard, surviving executor of John Bayard, deceased, and of the executors of Joseph Falconer, deceased.

1. Benjamin Jacobs paid loan office certificates, with interest. 2. John Bayard, loan office certificates paid, with interest. 3. Joseph Falconer paid interest on loan office certificates.

APPROVED, JUNE 28, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to settle the account of Benjamin Jacobs for two loan office certificates, amounting to seven hundred dollars, issued from the loan office in Connecticut, in the name of the said Benjamin Jacobs, viz: number nine thousand five hundred and forty-one, dated twenty-first of May, seventeen hundred and seventy-nine, for two hundred dollars, and number

six thousand one hundred and twenty-nine, dated April twenty-sixth, seventeen hundred and seventy-nine, for five hundred dollars, and to ascertain the true specie value thereof; which certificates are alleged to have been lost, and appear by the books of the treasury to be outstanding and unpaid; and that the amount so ascertained, with interest thereon, be paid to the said Benjamin Jacobs, out of any money in the treasury not otherwise appropriated, upon the said Benjamin Jacobs executing and delivering to the Comptroller of the Treasury a bond of indemnity, in double the amount of the sum to be paid, with sufficient security, to be approved by the said Comptroller.

SEC. 2. *And be it further enacted*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to settle the claim of Samuel Bayard, surviving executor of John Bayard, deceased, for six certificates, issued on the twenty-second of February, seventeen hundred and seventy-seven, in the name of the said John Bayard, viz: number one hundred and fifty-one, one hundred and fifty-two, one hundred and fifty-five, one hundred and fifty-six, one hundred and fifty-seven, one hundred and fifty-eight, for three hundred dollars each, amounting to one thousand eight hundred dollars, and to ascertain the true specie value thereof; which certificates are alleged to have been lost, and appear by the books of the treasury to be still unsatisfied; and the amount so ascertained, with interest thereon from the first day of January, seventeen hundred and eighty-eight, to be paid to the said Samuel Bayard, surviving executor as aforesaid, out of any money in the treasury not otherwise appropriated, upon the execution and delivery of a bond of indemnity from the said Samuel Bayard to the Comptroller of the Treasury, in double the amount of the sum to be paid, with sufficient security, to be approved of by the said Comptroller.

SEC. 3. *And be it further enacted*, That there be paid to the executors of Joseph Falconer, deceased, out of any money in the treasury not otherwise appropriated, interest upon two loan certificates—number thirty-five, for one thousand dollars, of the value of four hundred and fifty-four dollars and thirty-seven ninetieths, in specie, and number two thousand nine hundred and ninety-seven, for six hundred dollars, of the value of two hundred and seventy-two dollars and fifty-eight ninetieths, in specie, to be computed from the first day of January, seventeen hundred and eighty-eight, until the payment of the principal of those certificates, as directed by the act for the relief of the legal representatives of Joseph Falconer, approved twenty-eighth day of May, eighteen hundred and thirty.

[167.]

[*Laws of the U. S., vol. 9, page 102.*]

CHAP. 127. An act granting pensions to certain persons therein named.*

1. Pensions granted to Simon Delosch, Levi Strong, John O'Neil, Benjamin Goodrich, William Warren, George Lynch, Eli Mitchel, John S. Workman. 2. Benjamin Grover.

APPROVED, JUNE 30, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, authorized and directed to pay, out of any money in the treasury not otherwise appropriated, to the following persons, the pensions herein granted to them respectively, commencing at the times set against their names severally, and to continue during their natural lives, to wit :

Simon Deloach, at the rate of six dollars per month, commencing on the first day of January, eighteen hundred and thirty-two.

Livi Strong, at the rate of six dollars per month, commencing on the fourth day of March, eighteen hundred and thirty-one.

John O'Neil, at the rate of eight dollars per month, commencing on the first day of January, eighteen hundred and thirty-two.

Benjamin Goodrich, at the rate of six dollars per month, commencing on the first day of January, eighteen hundred and thirty-two.

William Warren, at the rate of sixteen dollars per month, commencing on the twenty second of January, one thousand eight hundred and thirty-three.

George Lynch, at the rate of six dollars per month, to commence on the fourteenth day of November, one thousand eight hundred and thirty-one.

Eli Mitchel, at the rate of eight dollars per month, commencing on the fourth day of March, one thousand eight hundred and thirty-four.

John S. Workman, at the rate of eight dollars per month, commencing on the eleventh day of June, eighteen hundred and twenty-nine.

SEC. 2. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and directed to pay to Benjamin Grover, of Pownal, in the State of Vermont, the pension granted to Benjamin Groun, by an act passed the fourteenth day of July, eighteen hundred and thirty-two, the same pension having been intended for said Benjamin Grover, to commence at the same time as by said act is provided.

* Up to this period, and since the act of the 20th June, 1830, the early and long established policy of embodying in a single act, yearly, the pensioners ordered on the pension roll, gradually abated, and finally gave place to that of passing a separate act for every pensioner, which multiplied these acts enormously, as will be seen by referring to the laws subsequent to this date. Having thus far sufficiently shown the adverse legislative practice, we shall here discontinue the enumeration of these private acts.—Eos.

[168.]

[*Laws of the U. S., vol. 9, page 125.*]

CHAP. 154. An act granting pensions to certain persons therein named.

1. Pensions granted to Francis Jacobs, Bazlee Porter, William Hunt, and Alfred Baldwin. 2. Pension granted to Hugh Lusk.

APPROVED, JUNE 30, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, authorized and directed to pay to the several persons herein named, a pension at the rate, and commencing at the time, set to each person's name, respectively, and to continue during his natural life: to

Francis Jacobs, at the rate of eight dollars per month, commencing on the first day of January, eighteen hundred and thirty-two.

Bazlee Porter, at the rate of eight dollars per month, commencing on the first day of January, eighteen hundred and thirty-three.

William Hunt, at the rate of eight dollars per month, commencing on the first day of January, eighteen hundred and thirty-two.

Alfred Baldwin, at the rate of eight dollars per month, commencing on the first day of January, eighteen hundred and thirty.

SEC. 2. *And be it further enacted*, That the name of Hugh Lusk be placed on the invalid pension roll, at the rate of six dollars per month, to commence on the first day of March, eighteen hundred and twenty-nine.

[169.]

[*Laws of the U. S., vol. 9, page 127.*]

CHAP. 159. An act granting pensions to several persons therein named.

1. Pensions granted to Manuel Cressy, Joseph Trimble, Levi Brown, Martin Parker, William Collins, Joseph Chamberlain, and Francis Ducoing.

APPROVED, JUNE 30, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, directed to pay, out of any money in the treasury not otherwise appropriated, to the several persons hereinafter named, the amount of pension to each one respectively set, commencing at the times severally named, and to continue each one during his natural life, to wit:

Manuel Cressy, at the rate of eight dollars per month, commencing on the first of January, eighteen hundred and thirty-one.

Joseph Trimble, at the rate of eight dollars per month, commencing on the first of January, eighteen hundred and thirty-two.

Levi Brown, at the rate of eight dollars and sixty-six cents per month, commencing on the first of January, eighteen hundred and thirty-one.

Martin Parker, at the rate of eight dollars per month, commencing January first, eighteen hundred and thirty.

William Collins, at the rate of eight dollars per month, commencing January first, eighteen hundred and thirty-three.

Joseph Chamberlain, at the rate of seventeen dollars per month, commencing on the first day of January, eighteen hundred and thirty-two.

Francis Ducoing, at the rate of eight dollars per month, commencing on the first day of January, eighteen hundred and thirty.

[170.]

[*Laws of the U. S., vol. 9, page 195.*]

CHAP. 282. An act making appropriations for the payment of revolutionary and other pensioners of the United States, for the year one thousand eight hundred and thirty-five.

APPROVED, JANUARY 27, 1835.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the treasury not otherwise appropriated, for the pensioners of the United States, for the year one thousand eight hundred and thirty-five :

For the revolutionary pensioners, under the several acts prior to that of the seventh of June, one thousand eight hundred and thirty-two, in addition to an unexpended balance of two hundred and seventy-three thousand and five dollars and fifty-three cents, the sum of four hundred and fifty-eight thousand nine hundred and ninety-nine dollars and forty-seven cents.

For the invalid pensioners, under various laws, in addition to an unexpended balance of sixty-nine thousand seven hundred and twenty-five dollars, the sum of two hundred and forty-one thousand two hundred and nineteen dollars.

For pensions to widows and orphans, in addition to an unexpended balance of three thousand five hundred and eighty-four dollars and forty-nine cents, the sum of two thousand five hundred dollars.

[171.]

[*Laws of the U. S., vol. 9, page 242.*]

CHAP. 323. An act to continue the office of Commissioner of Pensions.

1. Commissioner of Pensions continued for two years. 2. How appointed. 3. Salary and franking privilege. 4. Certain business relating to revolutionary claims transferred from Treasury to War Department.

APPROVED, MARCH 3, 1835.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the office of Commissioner of Pensions shall be, and the same is hereby, continued for the term of two years, from and after the fourth day of March next, and no longer.*

SEC. 2. *And be it further enacted,* That a Commissioner of Pensions shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and that he shall execute, under the direction of the Secretary of War, such duties in relation to the various pension laws as may be prescribed by the President.

SEC. 3. *And be it further enacted,* That the said commissioner shall receive an annual salary of twenty-five hundred dollars, and he shall also have the privilege of franking.

SEC. 4. *And be it further enacted,* That the duties heretofore required of, and performed by the Secretary of the Treasury, under the provisions of the act approved on the fifteenth of May, one thousand eight hundred and twenty-eight, † granting allowances to the officers and soldiers of the revolutionary army, and in relation to Virginia claims for revolutionary services and deficiency of commutation, be, and the same are hereby, transferred to, and made the duties of, the Secretary of War, from and after the first day of June next.

[172.]

[*Laws of the U. S., vol. 9, page 303.*]

CHAP. 434. An act to provide for the payment of volunteers and militia corps in the service of the United States.

1. Volunteers and militia to have the same pay and allowances as regular troops. 4. Pensions for wounds or disabilities. 5. Five years' half pay to widows and children of those who die. 6. This act to apply to those only who have been regularly called out.

APPROVED, MARCH 19, 1836

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the officers, non-commissioned officers, musicians, artificers, and

* The office of Commissioner of Pensions was further continued by act of March 3, 1837, and biennially up to the present time.

† See act of that date, No. [96.]—ante.

privates, of volunteer and militia corps, who have been in the service of the United States, at any time since the first of November, in the year of our Lord one thousand eight hundred and thirty-five, or may hereafter be in the service of the United States, shall be entitled to, and receive, the same monthly pay, rations, clothing, or money in lieu thereof, and forage, and be furnished with the same camp equipage, including knapsacks, as are, or may be, provided by law for the officers, musicians, artificers, and privates, of the infantry of the army of the United States.

SEC. 4. *And be it further enacted*, That the volunteers or militia who have been, or who may be, received into the service of the United States, to suppress Indian depredations in Florida, shall be entitled to all the benefits which are conferred on persons wounded or otherwise disabled in the service of the United States.

SEC. 5. *And be it further enacted*, That when any officer, non-commissioned officer, artificer, or private of said militia or volunteer corps, who shall die in the service of the United States or returning to his place of residence after being mustered out of service, or at any time in consequence of wounds received in service, and shall leave a widow, or if no widow, a child or children under sixteen years of age, such widow, or if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death, for and during the term of five years; and in case of the death or intermarriage of such widow before the expiration of five years, the half pay for the remainder of the time shall go to the child or children of said decedent: *Provided always*, That the Secretary of War shall adopt such forms of evidence, in applications under this act, as the President of the United States may prescribe.

SEC. 6. *And be it further enacted*, That the volunteers and militia, mentioned in the foregoing provisions of this act, called into service before its passage, and who are directed to be paid, shall embrace those only ordered into service by the commanding general, or Governors of States, and of the Territory of Florida, under authority from the War Department for repressing the hostilities of the Florida Indians.

[173.]

[*Laws of the U. S., vol. 9, page 308.*]

CHAP. 442. An act making appropriations for the payment of the revolutionary and other pensioners of the United States, for the year one thousand eight hundred and thirty-six.

APPROVED, APRIL 14, 1836.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

the following sums be, and the same are hereby, appropriated, to be paid out of any money in the treasury not otherwise appropriated, for the pensioners of the United States, for the year one thousand eight hundred and thirty-six.

For the revolutionary pensioners under the several acts, other than those of the fifteenth of May, one thousand eight hundred and twenty-eight, the seventh of June, one thousand eight hundred and thirty-two, and the fifth of July, one thousand eight hundred and thirty-two, in addition to an unexpended balance of three hundred and thirty-five thousand three hundred and ninety-five dollars and seventy cents, the sum of three hundred and forty-seven thousand six hundred and twenty-nine dollars.

For the invalid pensioners, under various laws, in addition to an unexpended balance of two hundred and one thousand seven hundred and twenty-one dollars and twenty-seven cents, one hundred and five thousand eight hundred and twenty-five dollars.

For pensions to widows and orphans, payable through the office of the Third Auditor, in addition to the unexpended balance of two thousand one hundred and ninety-five dollars and twenty-two cents, two thousand dollars.

[174.]

[*Laws of the U. S., vol. 9, page 318.*]

CHAP. 446. An act to prescribe the mode of paying pensions heretofore granted by the United States.

1. Pensions not to be paid by the Bank of the United States: The Secretary of War to appoint agents: No compensation.

APPROVED, APRIL 20, 1836.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all laws and parts of laws, authorizing or requiring the Bank of the United States, or its branches, to pay any pensions granted under the authority of the United States, shall be, and the same are hereby, repealed; and such payments shall be hereafter made, at such times and places, by such persons or corporations, and under such regulations, as the Secretary of War may direct; but no compensation or allowance shall be made to such persons or corporations for making such payments, without authority of law.*

[175.]

[*Laws of the U. S., vol. 9, page 341.*]

CHAP. 458. An act granting pensions, and arrearages of pensions, to certain persons therein named.

1. Pensions granted to Enoch Blaisdell, Jared Buckingham, Beverly Roy, Parsons Smith, Josiah H. Brown, Isaac Carter, James Calvin, and James B. Folsom. 2. Ar-

rearage of pension authorized to be granted to Edward Nicholas. 3. Increase of pension granted to Origen Eaton.

APPROVED, MAY 14, 1836.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, required to pay to the several persons herein named, out of any money in the treasury not otherwise appropriated, pensions at the rate set to each person's name, respectively, commencing at the time herein named, and to continue to each one during his natural life, viz :

To Enoch Blaisdell, of Dearborn county, Indiana, at the rate of seventeen dollars a month, commencing on the fourth day of March, eighteen hundred and thirty-four.

To Jared Buckingham, at the rate of five dollars and one-third of a dollar per month, commencing on the fourth day of March, eighteen hundred and thirty-two.

To Beverly Roy, at the rate of seventeen dollars per month, to commence on the fourth day of March, eighteen hundred and thirty-four.

To Parsons Smith, at the rate of four dollars per month, commencing on the fourth day of March, eighteen hundred and thirty-four.

To Josiah H. Brown, at the rate of four dollars per month, commencing on the fourth day of March, eighteen hundred and thirty-four.

To Isaac Carter, late a captain in the thirty-fourth regiment of infantry, at the rate of twenty dollars a month, commencing on the first day of January, eighteen hundred and thirty-four.

To James Calvin, of Johnson county, Indiana, at the rate of six dollars a month, commencing on the first day of January, eighteen hundred and thirty-five.

To James B. Folsom, at the rate of eight dollars per month, commencing on the twelfth day of June, eighteen hundred and thirty-three.

SEC. 2. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and required to pay to Edward Nicholas, now an invalid pensioner, out of any money in the treasury not otherwise appropriated, an arrearage of pension at the same rate per month now allowed to him, commencing at the time of his discharge from the army, upon the certificate of a surgeon of his disability, and continuing to the period when his name was placed on the roll of invalid pensioners.

SEC. 3. *And be it further enacted*, That there be, and hereby is, granted to Origen Eaton, of Sullivan, in the county of Madison, and State of New-York, a pension at the rate of twenty-five dollars a month, in lieu of the pension now received by him commencing on the first day of January, eighteen hundred and thirty-four.

[176.]

[*Laws of the U. S., vol. 9, page 344.*]

CHAP. 467. An act explanatory of the act entitled "An act to prevent defalcations on the part of the disbursing agents of the Government, and for other purposes."

APPROVED, MAY 20, 1836.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to prevent defalcations on the part of the disbursing agents of the Government, and for other purposes," approved the twenty-fifth of January, eighteen hundred and twenty-eight, shall not be construed to authorize the pension of any pensioner of the United States to be withheld.*

[177.]

[*Laws of the U. S., vol. 9, page 346.*]

CHAP. 470. An act authorizing the President of the United States to accept the service of volunteers, and to raise an additional regiment of dragoons or mounted riflemen.

APPROVED, MAY 23, 1836.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he hereby is, authorized to accept volunteers who may offer their services either as infantry or cavalry, not exceeding ten thousand men, to serve six or twelve months after they shall have arrived at the place of rendezvous, unless sooner discharged; and the said volunteers shall furnish their own clothes, and, if cavalry, their own horses, and when mustered into service shall be armed and equipped at the expense of the United States.*

SEC. 2. *And be it further enacted, That the said volunteers shall be liable to be called upon to do military duty only in cases of Indian hostilities, or to repel invasions, whenever the President shall judge proper, &c., &c.* * * * *

SEC. 5. *And be it further enacted, That the volunteers who may be received into the service of the United States, by virtue of the provisions of this act, shall be entitled to all the benefits which may be conferred on persons wounded in the service of the United States.*

[178.]

[*Laws of the U. S., vol. 9, page 349.*]

CHAP. 475. An act to provide for the payment of certain pensioners in the State of Virginia and Ohio.

APPROVED, JUNE 7, 1836.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

the Secretary of War be, and he is hereby, authorized and empowered to establish a pension agency at the city of Wheeling, in the State of Virginia, for the payment of pensioners of the United States resident in the counties of Brooke, Ohio, Marshall, Tyler, Wood, Lewis, Harrison, Randolph, Preston, and Monongalia, in Virginia; and Belmont, Jefferson, Guernsey, Harrison, and Monroe, in the State of Ohio: *Provided*, That the establishment of such agency can be made and continued without charge to the United States.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and hereby is, authorized to make the necessary arrangement for the payment of said pensioners.

SEC. 3. *And be it further enacted*, That this act shall take effect from and after the first day of August, eighteen hundred and thirty-six.

[179.]

[*Laws of the U. S.*, vol. 9, page 585.]

CHAP. 771. An act making appropriations for the payment of the revolutionary and other pensioners of the United States, for the year one thousand eight hundred and thirty-seven.

APPROVED, JANUARY 18, 1837.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, to be paid out of any money in the treasury not otherwise appropriated, for the pensioners of the United States, for the year one thousand eight hundred and thirty-seven:

For the revolutionary pensioners, under the several acts, other than those of the fifteenth of May, one thousand eight hundred and twenty-eight, the seventh of June, one thousand eight hundred and thirty-two, and the fourth of July, one thousand eight hundred and thirty-six, seven hundred and twelve thousand five hundred and sixty dollars.

For the invalid pensioners, under various laws, three hundred and twenty-five thousand three hundred and seventy-six dollars.

For pensions to widows and orphans, under the act of the fourth of July, one thousand eight hundred and thirty-six, five hundred and fifty-two thousand dollars.

For pensions to widows and orphans, payable through the office of the Third Auditor, four thousand dollars.

[180.]

[*Laws of the U. S.*, vol. 9, page 656.]

CHAP. 810. An act to continue the office of Commissioner of Pensions.

APPROVED, MARCH 3, 1837.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the

office of Commissioner of Pensions shall be, and the same is hereby, continued, until the fourth day of March, eighteen hundred and forty.

SEC. 2. *And be it further enacted*, That a Commissioner of Pensions shall be appointed by the President of the United States, by and with the advice and consent of the Senate; and that he shall execute, under the direction of the Secretary of War, such duties in relation to the various pension laws as may be prescribed by the President.

SEC. 3. *And be it further enacted*, That the said Commissioner shall receive an annual salary of three thousand dollars, and have the privilege of sending and receiving letters and packets by mail free of postage.

[181.]

[*Laws of the U. S., vol. 9, page 723.*]

CHAP. 891. An act making appropriations for the payment of the revolutionary and other pensioners of the United States, for the year one thousand eight hundred and thirty-eight.

1. Appropriations for pensions: Revolutionary pensions: Invalid pensions: Widows and orphans pensions: Half pay pensions.

APPROVED, MARCH 10, 1838.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, in addition to former appropriations, to be paid out of any money in the treasury not otherwise appropriated, for the pensioners of the United States, for the year one thousand eight hundred and thirty-eight:

For the revolutionary pensioners, under the several acts other than those of the fifteenth of May, one thousand eight hundred and twenty-eight; the seventh of June, one thousand eight hundred and thirty-two; and the fourth of July, one thousand eight hundred and thirty-six, four hundred and twenty-six thousand seven hundred and seventy-two dollars.

For the invalid pensioners, under various laws, one hundred and thirty-four thousand and seventy-five dollars and sixty-two cents.

For pensions to widows and orphans, under the act of the fourth of July, one thousand eight hundred and thirty-six, one million four hundred and ninety-two thousand six hundred and eighty-five dollars.

For half pay pensioners, payable through the office of the Third Auditor, five thousand dollars.

[182.]

[*Laws of the U. S., vol. 9, page 746.*]

CHAP. 915. An act directing the transfer of money remaining unclaimed by certain pensioners, and authorizing the payment of the same at the treasury of the United States.

1. Money unclaimed by pensioners to be transferred to the United States Treasury, and to be payable there. 2. Transfer—how to be made.

APPROVED, APRIL 6, 1838.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all money which has been, or may hereafter be, transmitted to the agents for paying pensions, which may have remained, or may hereafter remain, in the hands of said agents, unclaimed by any pensioner or pensioners for the term of eight months after the same may have or may become due and payable, shall be transferred to the treasury of the United States; and that all pensions unclaimed, as aforesaid, shall be thereafter payable only at the treasury of the United States, and out of any money not otherwise appropriated.

SEC. 2. *And be it further enacted*, That the transfer directed by the first section of this act shall be made by the draft of the Commissioner of Pensions upon the agents for paying pensions, and in favor of the Treasurer of the United States; and that the form of said draft shall be prescribed by the Secretary of War.

[183.]

[*Laws of the U.S., vol. 9, page 821.*]

CHAP. 1018. An act to amend "An act authorizing the Secretary of War to establish a pension agency in the town of Decatur, in the State of Alabama, and to provide for the payment of certain pensioners in the said town of Decatur."

APPROVED, JULY 5, 1838.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, authorized, if in his opinion necessary, to remove and establish said pension agency in the town of Huntsville, Alabama; and, in the event of said removal, the pensions described in said act shall be paid in Huntsville.

[184.]

[*Laws of the U. S., vol. 9, page 897.*]

CHAP. 1048. An act granting half pay and pensions to certain widows.

1. Five years' pension granted to widows of revolutionary officers and soldiers married after their term of service, and before first January, 1794. 2. No pledge, mortgage, &c., of the half pay or pension to be valid: Not liable to be seized or attached by any process

in law: Oath to be taken by an attorney before the delivery of the warrant. 3. Regulations and forms.

APPROVED, JULY 7, 1838.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any person who served in the war of the revolution in the manner specified in the act passed the seventh of June, eighteen hundred and thirty-two, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the revolution," have died, leaving a widow, whose marriage took place after the expiration of the last period of his service, and before the first day of January, seventeen hundred and ninety-four, such widow shall be entitled to receive, for and during the term of five years from the fourth day of March, eighteen hundred and thirty-six, the annuity or pension which might have been allowed to her husband, in virtue of the said act, if living at the time it was passed: *Provided*, That in the event of the marriage of such widow, said annuity or pension shall be discontinued.

SEC. 2. *And be it further enacted*, That no pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest, in any annuity, half pay, or pension, granted by this act, shall be valid, nor shall the half pay, annuity, or pension, granted by this act, or any former act of Congress, be liable to attachment, levy, or seizure, by any process, in law or equity, but shall enure wholly to the personal benefit of the pensioner or annuitant entitled to the same; and that before a warrant shall be delivered to any person acting for or in behalf of any one entitled to money under this act, such person shall take and subscribe an oath or affirmation, to be administered by the proper accounting officer, and put on file, that he has no interest in said money, by any pledge, mortgage, transfer, agreement, understanding, or arrangement, and that he does not know or believe that the same has been so disposed of to any other person.

SEC. 3. *And be it further enacted*, That the Secretary of War shall adopt such regulations and forms of evidence, in relation to applications and payments under this act, as the President of the United States may prescribe.

[185.]

[*Laws of the U. S., vol. 9, page 937.*]

CHAP. 1130. A resolution for the benefit of the widows of certain revolutionary officers and soldiers.

Half pay extended to widows of officers and soldiers who died after passage of act of 4th July, 1836.

APPROVED, JULY 7, 1838.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the bene-

fits of the third section of an act entitled "An act granting half pay to widows or orphans where their husbands and fathers have died of wounds received in the military service of the United States in certain cases, and for other purposes," approved the fourth day of July, eighteen hundred and thirty-six, shall not be withheld from any widow whose husband has died since the passage of the said act, or who shall hereafter die, if said widow shall otherwise be entitled to the same.

[186.]

[*Laws of the U. S., vol. 9, page 954.*]

CHAP. 1155. An act making appropriations for the payment of the revolutionary and other pensioners of the United States, for the year eighteen hundred and thirty-nine.

APPROVED, FEBRUARY 13, 1839.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated, in addition to former appropriations, to be paid out of any money in the treasury not otherwise appropriated, for the pensioners of the United States, for the year one thousand eight hundred and thirty-nine :

For the revolutionary pensioners, under the several acts other than those of the fifteenth of May, one thousand eight hundred and twenty-eight; the seventh of June, one thousand eight hundred and thirty-two; and the fourth of July, one thousand eight hundred and thirty-six; three hundred and twenty-six thousand two hundred and fifty dollars.

For the invalid pensioners, under various laws, three hundred thousand six hundred and eighty-five dollars and sixty-three cents.

For pensions to widows and orphans under the act of the fourth of July, one thousand eight hundred and thirty-six, four hundred and ninety thousand and eighty-four dollars and fifty-two cents.

For five years' pensions to widows, per act seventh July, one thousand eight hundred and thirty-eight, one million three hundred and seventy-two thousand dollars.

For half pay pensions, payable through the office of the Third Auditor, ten thousand dollars.

[187.]

[*Laws of the U. S., Pamphlet Edition for 1840.*]

CHAP. 2. An act making appropriations for the payment of the revolutionary and other pensioners of the United States, for the year eighteen hundred and forty.

1. Revolutionary pensioners: Pensions to widows and orphans: Five years' pensions to widows: Half pay pensioners: Arrearages. 2. Pension agents authorized to admin-

ister all oaths required to be administered to pensioners, &c.: Their compensation to be the same as is, by law, allowed to State officers.

APPROVED, FEBRUARY 22, 1840.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated, in addition to former appropriations, to be paid out of any money in the treasury not otherwise appropriated, for the pensioners of the United States, for the year one thousand eight hundred and forty:

For the revolutionary pensioners under the act of the eighteenth of March, one thousand eight hundred and eighteen, one hundred and twelve thousand one hundred and thirty-two dollars.

For pensions to widows and orphans, under the act of the fourth of July, one thousand eight hundred and thirty-six, twenty-three thousand six hundred and seventy-six dollars.

For five years' pensions to widows, under the act of the seventh July, one thousand eight hundred and thirty-eight, eight hundred and sixty-three thousand five hundred and forty dollars.

For half pay pensioners, payable through the third Auditor's office, ten thousand dollars.

For arrearages, payable through the third Auditor's office, fifteen hundred dollars.

SEC. 2. *And be it further enacted,* That the several agents for paying pensions, now in office, or hereafter to be appointed, shall be, and they are hereby, authorized to administer all oaths required to be administered to pensioners, attorneys of pensioners, or others, in the course of the preparation of papers for the payment of pensions under any of the laws of Congress; and that the said agents, for the administration of every oath and the proper certificate thereof, shall be, and are hereby, authorized to charge, and shall be entitled to receive, from the person to whom the oath is administered, the same compensation which, by the law of the State in which the agent is located, is allowed to State officers for administering similar oaths and certifying the same.

[188.]

[*Laws of the U. S., Pamphlet Edition for 1840.*]

CHAP. 4. An act to continue the office of Commissioner of Pensions, and to transfer the pension business, heretofore transacted in the Navy Department, to that office.

1. The office of Commissioner of Pensions continued until 4th March, 1843. 2. A committee to be appointed: How, and his duties. 3. Salary: The franking privilege extended to him. 4. The pension business transacted in the Navy Department transferred to the office of Commissioner of Pensions, etc.

APPROVED, MARCH 4, 1840.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the office of Commissioner of Pensions shall be and the same is

hereby continued, until the fourth day of March, eighteen hundred and forty-three.

SEC. 2. *And be it further enacted,* That a Commissioner of Pensions shall be appointed by the President of the United States, by and with the advice and consent of the Senate; and that he shall execute, under the direction of the Secretary of War and the Secretary of the Navy, such duties in relation to the various pension laws as may be prescribed by the President.

SEC. 3. *And be it further enacted,* That the said Commissioner shall receive an annual salary of two thousand five hundred dollars, and shall have the privilege of sending and receiving letters and packets by mail free of postage.

SEC. 4. *And be it further enacted,* That the pension business heretofore transacted in the Navy Department, shall be transferred to the office of the Commissioner of Pensions, and that the clerk now employed in that business be also transferred to that office.

[189.]

[*Laws of the U. S., Pamphlet Edition for 1840.*]

CHAP. 17. An act making provision for the payment of pensions to executors or administrators of deceased pensioners in certain cases.

1. In case of a pensioner leaving children but no widow. 2. In case of a pensioner who is a widow leaving children. 3. In case of any pensioner leaving children.

APPROVED, JUNE 19, 1840.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in case any male pensioner shall die, leaving children, but no widow, the amount of pension due to such pensioner at the time of his death shall be paid to the executor or administrator on the estate of such pensioner, for the sole and exclusive benefit of the children, to be by him distributed among them in equal shares, and the same shall not be considered as a part of the assets of said estate, nor liable to be applied to the payment of the debts of said estate, in any case whatever.

SEC. 2. *And be it further enacted,* That in case any pensioner who is a widow, shall die, leaving children, the amount of pension due at the time of her death shall be paid to the executor or administrator for the benefit of her children, as directed in the foregoing section.

SEC. 3. *And be it further enacted,* That in case of the death of any pensioner, whether male or female, leaving children, the amount of pension may be paid to any one or each of them, as they may prefer, without the intervention of an administrator.

[190.]

[*Laws of the U. S., Pamphlet Edition for 1841.*]

CHAP. 5. An act making appropriations for the payment of revolutionary and other pensioners of the United States, for the year eighteen hundred and forty-one, and for other purposes.

1. Revolutionary pensions: Invalid pensions: Pensions to widows and orphans: Five years' pension to widows: Half pay pensions: Arrearages.

APPROVED, FEBRUARY 18, 1841.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated, in addition to former appropriations, to be paid out of any money in the treasury not otherwise appropriated, for the pensioners of the United States, for the year one thousand eight hundred and forty-one:

For the revolutionary pensioners under the act of the eighteenth of March, one thousand eight hundred and eighteen, three hundred and fourteen thousand dollars.

For payment of invalid pensions, one hundred and seven thousand dollars.

For pensions to widows and orphans under the act of the fourth of July, one thousand eight hundred and thirty-six, four hundred and forty-eight thousand two hundred and forty-one dollars.

For five years' pensions to widows under act of the seventh of July, one thousand eight hundred and thirty-eight, one hundred and sixty-eight thousand three hundred and fourteen dollars.

For half pay pensions, payable through the offices of the Second and Third Auditors, five thousand dollars.

For arrearages, payable through the Second Auditor's office, six hundred dollars.

For arrearages, payable through the Third Auditor's office, one thousand dollars.

[191.]

[*Laws of the U. S., Pamphlet Edition for 1841.*]

CHAP. 16. An act making appropriations for the civil and diplomatic expenses of the government for the year eighteen hundred and forty-one.

APPROVED, MARCH 3, 1841.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated, to be paid out of any unappropriated money in the treasury, viz:

20. For compensation of clerks transferred from the office of the Secretary of War to the office of the Commissioner of Pensions,

two thousand seven hundred and ninety-three dollars and forty cents.

21. For compensation of one clerk transferred from the Navy Department, per act March four, eighteen hundred and forty, sixteen hundred dollars.

[192.]

[*Laws of the U. S., Pamphlet Edition for 1842.*]

CHAP. 4. An act making appropriations for pensions in the year one thousand eight hundred and forty-two.

APPROVED, FEBRUARY 12, 1842.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, to wit :

For revolutionary pensions, under the act of the eighteenth of March, eighteen hundred and eighteen, in addition to a probable balance at the end of the year eighteen hundred and forty-one, of one hundred eighty-eight thousand seven hundred and ninety-nine dollars, eighty-eight thousand two hundred and sixty-one dollars.

For invalid pensions, under various acts, two hundred thousand two hundred and seventy-five dollars.

For pensions to widows and orphans, per act of the fourth of July, eighteen hundred and thirty-six, in addition to a probable balance at the end of the year eighteen hundred and forty-one, of thirty-thousand dollars, two hundred forty-two thousand two hundred and forty dollars.

For five years' pensions to widows, per act of seventh July, eighteen hundred and thirty-eight, two hundred thousand dollars.

[193.]

[*Laws of the U. S., Pamphlet Edition for 1842.*]

CHAP. 24. An act to provide for the allowance of invalid pensions to certain Cherokee warriors, under the provisions of the fourteenth article of the treaty of eighteen hundred and thirty-five.

1. Certain Cherokee warriors to be allowed pensions at the same rate as officers and soldiers of the regular army.

APPROVED, APRIL 14, 1842.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he hereby is, required to place on the pension roll such warriors of the Cherokee nation as were engaged on the side of the United States in the late war with

Great Britain and the Southern Indians, and who were wounded in such service, at the same rates of pension as are allowed by law to the officers and soldiers of the regular army of the United States, under such rules and regulations as to the proof of disability as the Secretary of War shall prescribe; which pensions shall commence from the period of disability.

[194.]

[*Laws of the U. S., Pamphlet Edition for 1842.*]

CHAP. 191. An act to amend the acts of July, eighteen hundred and thirty-six, and eighteen hundred and thirty-eight, allowing pensions to certain widows.

1. Marriage of a widow after the death of her husband to be no bar to her pension if a widow at the time of applying.

APPROVED, AUGUST 23, 1842.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the marriage of the widow, after the death of her husband, for whose services she claims a pension under the act of the seventh of July, eighteen hundred and thirty-eight, shall be no bar to the claim of such widow to the benefit of that act, she being a widow at the time she makes application for a pension.

[195.]

[*Laws of the U. S., Pamphlet Edition for 1842.*]

No. 8. A resolution declarative of the pension act of July seventh, eighteen hundred and thirty-eight.

Benefits of the act not to be withheld from certain widows.

APPROVED, AUGUST 16, 1842.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the benefits of the act, entitled "An act granting half pay and pensions to certain widows," approved the seventh day of July, eighteen hundred and thirty-eight, shall not be withheld from any widow whose husband died after the passage of the act of the seventh of June, eighteen hundred and thirty-two, and before the act of the seventh July, eighteen hundred and thirty-eight, if otherwise entitled to the same.

[196.]

[*Laws of the U. S., Pamphlet Edition for 1843.*]

CHAP. 4. An act to continue the office of Commissioner of Pensions.

1. Office continued until 4th March, 1846. 2. A Commissioner to be appointed: Granting bounty lands added to his duties. 3. Allowed a salary of \$2,500, and the franking privilege.

APPROVED, JANUARY 20, 1843.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

the office of Commissioner of Pensions shall be, and the same is hereby, continued until the fourth of March, one thousand eight hundred and forty-six.

SEC. 2. *And be it further enacted*, That a Commissioner of Pensions shall be appointed by the President of the United States, by and with the consent of the Senate, and that he shall execute, under the direction of the Secretary of War and the Secretary of the Navy, such duties in relation to the various pension laws as may be prescribed by the President; and also such duties in relation to the laws granting military bounty lands as may be assigned to him by the Secretary of War with the sanction of the President.

SEC. 3. *And be it further enacted*, That the said Commissioner shall receive an annual salary of two thousand five hundred dollars, and shall have the privilege of sending and receiving letters and packets by mail free of postage.

[197.]

[*Laws of the U. S., Pamphlet Edition for 1843.*]

CHAP. 27. An act making appropriations for pensions for the half calendar year beginning the first day of January and ending the thirtieth day of June, one thousand eight hundred and forty-three; and for the fiscal year beginning the first day of July, one thousand eight hundred and forty-three, and ending the thirtieth day of June, one thousand eight hundred and forty-four.

1. Invalid pensions: Revolutionary pensions: Pensions to widows and orphans: Five years' pensions to widows: Arrearages and half pay pensions.

APPROVED, FEBRUARY 14, 1843.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the payment of pensions for the half calendar year beginning on the first day of January and ending on the thirtieth day of June, one thousand eight hundred and forty-three; and for the fiscal year beginning on the first day of July, one thousand eight hundred and forty-three, and ending on the thirtieth day of June, one thousand eight hundred and forty-four:

For invalid pensions for the said half calendar year, eighty-six thousand two hundred and forty dollars; and for the said fiscal year, one hundred and fifty-eight thousand four hundred dollars.

For revolutionary pensions under the act of the eighteenth March, one thousand eight hundred and eighteen, for the said half calendar year, seventeen thousand six hundred dollars; and for the said fiscal year, one hundred and ninety-two thousand dollars.

For pensions to widows and orphans, under the act of fourth of July, one thousand eight hundred and thirty-six, for the said

half calendar year, four thousand five hundred dollars; and for the said fiscal year, two hundred and twenty-two thousand two hundred and fifty dollars.

For five years' pensions to widows, under the act of seventh of July, one thousand eight hundred and thirty-eight, for the said half calendar year, ten thousand dollars; and for the said fiscal year, one hundred and twenty thousand dollars.

For arrearages prior to July, one thousand eight hundred and fifteen, payable through the Third Auditor, for the said half calendar year, one thousand dollars; and for the said fiscal year, two thousand dollars.

For arrearages and half pay pensions, through the Second Auditor, for the said fiscal year, five hundred dollars.

For half pay pensions, payable through the Third Auditor, for the said fiscal year, three thousand dollars.

[198.]

[*Laws of the U. S., Pamphlet Edition for 1843.*]

CHAP. 102. An act granting a pension to certain revolutionary soldiers.

1. Pensions to certain widows continued one year. 2. \$380,000 appropriated therefor.

APPROVED, MARCH 3, 1843.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the widow of any person who served in the war of the revolution in the manner set forth in the act approved the seventh day of June, eighteen hundred and thirty-two, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the revolution," and whose widow, in virtue of an act approved the seventh day of July, eighteen hundred and thirty-eight, entitled "An act granting half pay and pensions to certain widows," and an act approved the twenty-third day of August, eighteen hundred and forty-two, amendatory thereof, and a resolution approved the sixteenth day of August, eighteen hundred and forty-two, entitled "A resolution declarative of the pension act of July seventh, eighteen hundred and thirty-eight," received, or is entitled to, an annuity or pension for the term of five years from the fourth of March, eighteen hundred and thirty-six, shall be entitled to receive the same annuity or pension which she received, or is entitled to receive, under said acts or said resolution, or either of them, for and during the future term of one year from the fourth day of March, eighteen hundred and forty-three, or during such portion of said term as said widow shall survive, subject in all respects, however, to the rules, limitations, and conditions, in and by said acts and resolutions made and provided.

SEC. 2. *And be it further enacted,* That the sum of three hundred and eighty thousand dollars be, and the same is hereby, ap-

appropriated, out of any money in the treasury not otherwise appropriated, to pay the annuities or pensions in and by this act granted.

[199.]

[*Laws of the U. S., Pamphlet Edition for 1844.*]

CHAP. 15. AN ACT making appropriations for the payment of revolutionary and other pensioners of the United States, for the fiscal year ending on the thirtieth of June, one thousand eight hundred and forty five.

1. Invalid pensions, \$184,800: Pensions under act March 18, 1818, \$196,000: Under act of July 7, 1838, and August 23, 1842, \$400,000: Under act of July 4, 1836, \$134,250: For deficiency in appropriations for previous year, under acts March 3, 1843, July 7, 1838, and August 23, 1842, \$40,000: Secretary of War may transfer \$220,000, out of the \$400,000, appropriated for pensions under act of July 7, 1838, and August 23, 1842, to pay arrearages under said acts, and act of March 3, 1843: Half pay pensions to widows and orphans, \$1,000: Arrearages prior to July, 1815, \$2,000: No pension to widow for the time her husband received one: No person to receive invalid pension and pay at the same time, unless, &c.

APPROVED, APRIL 30, 1844.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated out of any money in the treasury not otherwise appropriated, for the pensioners of the United States for the fiscal year commencing on the first day of July, one thousand eight hundred and forty-four, and ending on the thirtieth day of June, one thousand eight hundred and forty-five:

For invalid pensions, one hundred and eighty-four thousand eight hundred dollars.

For pensions under the act of eighteenth March, eighteen hundred and eighteen, one hundred and ninety-six thousand dollars.

For pensions under the act of July seventh, eighteen hundred and thirty-eight, and the act supplementary thereto, passed the twenty-third of August, eighteen hundred and forty-two, four hundred thousand dollars.

For pensions under the act of July the fourth, eighteen hundred and thirty-six, one hundred and thirty-four thousand two hundred and fifty dollars.

For supplying a deficiency in former appropriations for the fiscal year ending June thirty, one thousand eight hundred and forty-four, for pensions under the act of March three, one thousand eight hundred and forty-three, and under the act of seventh of July, eighteen hundred and thirty-eight, and the act of twenty-third of August, eighteen hundred and forty-two, forty thousand dollars: *Provided*, That the Secretary of War may direct the transfer of a part, not exceeding two hundred and twenty thousand dollars, of the sum of four hundred thousand dollars, appropriated in this act for the payment of pensions under the act of seventh of July, eighteen hundred and thirty-eight, and the act of

twenty-third August, eighteen hundred and forty-two, to the payment of arrearages under the said acts, and also under the act of third of March, eighteen hundred and forty-three.

For half pay pensions to widows and orphans, payable through the Second and Third Auditor's offices, one thousand dollars.

For arrearages of pensions prior to July, eighteen hundred and fifteen, payable through Third Auditor's office, two thousand dollars: *Provided*, That no pension shall be hereafter granted to a widow for the same time that her husband received one: *And provided, also*, That no person in the army, navy, or marine corps, shall be allowed to draw both a pension as an invalid and the pay of his rank or station in the service, unless the alleged disability for which the pension was granted be such as to have occasioned his employment in a lower grade, or in some civil branch of the service.

[200.]

[*Laws of the U. S., Pamphlet Edition for 1844.*]

CHAP. 18. An act to authorize the transfer of the names of pensioners from the agencies in the State of Kentucky to the agency in Cincinnati, in the State of Ohio.

1. On application of any pensioners resident in Kentucky, their names to be transferred to agency in Cincinnati.

APPROVED, MAY 23, 1844.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury [Secretary of War] be, and he is hereby authorized to direct the names of any pensioners, resident in the State of Kentucky, to be transferred, on the application of such pensioners, from the agencies in the State of Kentucky, to the agency in Cincinnati, in the State of Ohio.

[201.]

[*Laws of the U. S., Pamphlet Edition for 1844.*]

CHAP. 63. An act transferring the execution of a certain act from the Secretary of the Treasury to the Secretary of War. *

1. Act of May 23, 1844, to be executed by the Secretary of War.

APPROVED JUNE 15, 1844.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act entitled "An act to authorize the transfer of the names of pensioners from the agencies in the State of Kentucky, to the agency in Cincinnati, in the State of Ohio," and approved May twenty-third, eighteen hundred and forty-four, shall be executed by the Secretary of War, instead of the Secretary of the Treasury.

* This act became necessary to correct the error of the act referred to.

[202.]

[*Laws of the U. S., Pamphlet Edition for 1844.*]

CHAP. 102. An act to continue the pension of certain widows.

1. Act of March 3, 1843, granting pensions to widows, extended for four years from March 4, 1844. 2. Widows entitled to benefit of act of July 7, 1838, to have the benefit of this act.

APPROVED, JUNE 17, 1844.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act granting pensions to the widows of certain revolutionary soldiers, approved the third day of March, one thousand eight hundred and forty-three, be and the same is hereby revived and extended from and during the term of four years from and after the fourth day of March, one thousand eight hundred and forty-four, to have the same effect as if said act had been a grant of pensions for five years instead of one year from and after the fourth day of March, one thousand eight hundred and forty-three.

SEC. 2. *And be it further enacted,* That such widows as have been or shall be admitted by special acts of Congress to the benefit of the pension act approved the seventh day of July, one thousand eight hundred and thirty-eight, or to the benefit of the act hereby revived and extended, shall be entitled and shall be admitted to the benefit of this act; subject, however, to the rules, limitations, and conditions in and by said acts prescribed.

[203.]

[*Laws of the U. S., Pamphlet Edition for 1845.*]

CHAP. 14. An act making appropriations for the payment of revolutionary and other pensioners of the United States, for the year ending the thirtieth June, eighteen hundred and forty-six.

1. Revolutionary pensions: Invalid pensions: Pensions to widows and orphans: Arrearages. 2. Deficiencies for the year ending 30th June, 1845.

APPROVED, FEBRUARY 20, 1845.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby appropriated out of any money in the treasury not otherwise appropriated, for the payment of pensions for the year ending the thirtieth June, eighteen hundred and forty-six:

For revolutionary pensions under act of eighteenth March, eighteen hundred and eighteen, one hundred and eighty-six thousand two hundred dollars.

For invalid pensions under various laws, one hundred and eighty-four thousand eight hundred dollars.

For pensions to widows and orphans under the act of fourth July, eighteen hundred and thirty-six, two hundred and twenty thousand five hundred dollars.

For pension to widows under the act of seventh July, eighteen hundred and thirty-eight, and the supplementary act of twenty-third August, eighteen hundred and forty-two, one hundred and eighty thousand dollars.

For pensions to widows under the act of third March, eighteen hundred and forty-three, eighty thousand dollars.

For pensions to widows under the act of seventeenth June, eighteen hundred and forty-four, one million and ninety-six thousand dollars—a part of which sum may be applied to the payment of pensions allowed under said act in the year ending on the thirtieth June, eighteen hundred and forty-five.

For half pay pensions to widows and orphans, payable through the Auditor's office, one thousand five hundred dollars.

For arrearages provided for by acts of third March, eighteen hundred and seventeen, and second May, eighteen hundred and twenty, payable through the accounting officers, one thousand dollars.

SEC. 2. *And be it further enacted*, That the following sums be, and the same are hereby appropriated, to supply deficiencies in the appropriations made for the payment of pensions during the fiscal year ending on the thirtieth June, eighteen hundred and forty-five, under the following heads, viz :

For pensions under the act of July fourth, eighteen hundred and thirty-six, seventy-six thousand dollars.

For widows pensions under acts of July seventh, eighteen hundred and thirty-eight, and August twenty-third, eighteen hundred and forty-two, two hundred thousand dollars.

For widows pensions under the act of March third, eighteen hundred and forty-three, twenty-nine thousand dollars.

[204.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 3.*]

CHAP. 4. An act to continue the office of the Commissioner of Pensions.

1. Office of Commissioner of Pensions continued to March 4th, 1849.

APPROVED, JANUARY 14, 1846.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the authority given to continue the office of Commissioner of Pensions by the act of the twentieth of January, eighteen hundred and forty-three, entitled "An act to continue the office of Commissioner of Pensions," be extended to the fourth of March, eighteen hundred and forty-nine, and no longer.

[205.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 5.*]

CHAP. 13. An act making appropriations for the payment of revolutionary and other pensions of the United States for the year ending the thirtieth June, one thousand eight hundred and forty-seven, and for other purposes.

1. Appropriation : Revolutionary pensions : Invalid pensions : Pensions to widows and orphans : Arrearages. 2. Evidence necessary to entitle a widow to a pension : Proviso, that the commissioner is satisfied. 3. Act of 1845, section 4, respecting the re-opening of settled accounts, and the limitation of claims on the United States, not to apply to pensions.

APPROVED, MAY 7, 1846.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be and the same are hereby appropriated, out of any money in the treasury not otherwise appropriated, for the payment of pensions for the year ending the thirtieth of June, one thousand eight hundred and forty-seven :*

For revolutionary pensions under the act of eighteenth March, one thousand eight hundred and eighteen, one hundred and sixty-six thousand dollars.

For invalid pensions under various acts, two hundred and twenty thousand dollars.

For pensions to widows and orphans under the act of fourth July, one thousand eight hundred and thirty-six, three hundred and twenty-eight thousand five hundred dollars.

For pensions to widows under the act of seventh July, one thousand eight hundred and thirty-eight, and the acts supplementary thereto, three hundred thousand dollars.

For pensions to widows under the act of third March, one thousand eight hundred and forty-three, eighty thousand dollars.

For pensions to widows under the act of seventeenth June, one thousand eight hundred and forty-four, six hundred thousand dollars.

For half pay pensions to widows and orphans, payable through the Third Auditor's office, four thousand five hundred dollars.

For arrearages prior to July second, one thousand eight hundred and fifteen, payable through the Third Auditor's office, one thousand two hundred dollars.

SEC. 2. *And be it further enacted, That no widow entitled to a pension under existing laws, and claiming a pension, whose husband was drawing a pension at the time of his decease, shall be required, in any such case, to furnish any further evidence that said husband was entitled to a pension; nor shall any evidence, in any case, be required to entitle the widow to a pension, when the evidence is in the archives of the government, other than such proof as would be sufficient to establish the marriage between the applicant and the deceased pensioner in civil personal actions in a court of justice : Provided, That, upon a revision of the*

testimony in the case of the deceased husband, the commissioner be satisfied that the pension was properly granted.

SEC. 3. *And be it further enacted*, That the fourth section of an act entitled "An act making appropriations for the civil and diplomatic expenses of the government for the fiscal year ending the thirtieth day of June, A. D. eighteen hundred and forty-six, and for other purposes," shall not be so construed as to apply to applications for pensions.

[206.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 6.*]

CHAP. 14. An act to supply deficiencies in the appropriations for certain objects made for the service of the fiscal year ending the thirtieth of June, eighteen hundred and forty-six.

APPROVED, MAY 8, 1846.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated to supply deficiencies in the appropriations for various objects made for the service of the fiscal year ending on the thirtieth of June, eighteen hundred and forty-six, namely: * * *

• 19. For payment of invalid pensions under various laws, seventy-four thousand dollars.

20. For payment of pensions under the act of July four, eighteen hundred and thirty-six, one hundred and two thousand dollars.

21. For payment of widows' pensions under act of July seven, eighteen hundred and thirty-eight, and the acts supplementary thereto, one hundred and three thousand eight hundred dollars.

[207.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 9.*]

CHAP. 16. An act providing for the prosecution of the existing war between the United States and the Republic of Mexico.

1. The President authorized to employ militia, naval, and military forces of the United States, and to call for and accept volunteers, not exceeding 50,000: Time volunteers are to serve: Ten millions of dollars appropriated. 7. Provision for volunteers wounded in service.

APPROVED, MAY 13, 1846.

Whereas, by the act of the Republic of Mexico, a state of war exists between that government and the United States.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, for the purpose of enabling the government of the United States

to prosecute said war to a speedy and successful termination, the President be, and he is hereby, authorized to employ the militia, naval, and military forces of the United States, and to call for and accept the services of any number of volunteers, not exceeding fifty thousand, who may offer their services, either as cavalry, artillery, infantry, or riflemen, to serve twelve months after they shall have arrived at the place of rendezvous, or to the end of the war, unless sooner discharged, according to the time for which they shall have been mustered into service; and that the sum of ten millions of dollars, out of any money in the treasury, or to come into the treasury, not otherwise appropriated, be, and the same is hereby, appropriated for the purpose of carrying the provisions of this act into effect. * * * * *

SEC. 7. *And be it further enacted*, That the volunteers who may be received into the service of the United States by virtue of the provisions of this act, and who shall be wounded or otherwise disabled in the service, shall be entitled to all the benefit which may be conferred on persons wounded in the service of the United States.

[208.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 126.*]

CHAP. 13. An act making appropriations for the payment of revolutionary and other pensions of the United States, for the year ending the thirtieth June, one thousand eight hundred and forty-eight.

1. Appropriations: Revolutionary pensioners: Invalid pensioners: Pensions to widows and orphans: Half pay pensions to widows and orphans: Arrearages. 2. Compensation to pension agents: Balance not to accumulate.

APPROVED, FEBRUARY 20, 1847.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the payment of pensions for the year ending the thirtieth of June, one thousand eight hundred and forty-eight:

For revolutionary pensions, under the act of the eighteenth of March, one thousand eight hundred and eighteen, sixty-seven thousand two hundred dollars.

For invalid pensions, under various acts, one hundred and sixty-six thousand dollars.

For pensions to widows and orphans, under the act of the fourth of July, one thousand eight hundred and thirty-six, two hundred and fifty-eight thousand dollars.

For pensions to widows, under the act of the seventh of July, one thousand eight hundred and thirty-eight, and the acts supplementary thereto, two hundred and seventy thousand dollars.

For pensions to widows, under the act of the third of March, one thousand eight hundred and forty-three, fifty-six thousand dollars.

For pensions to widows, under the act of the seventeenth of June, one thousand eight hundred and forty-four, four hundred and eighty thousand dollars.

For half pay pensions to widows and orphans, payable through the Third Auditor's office, five thousand five hundred dollars.

For arrearages prior to July first, one thousand eight hundred and fifteen, payable through the Third Auditor's office, one thousand dollars.

SEC. 2. *And be it further enacted,* That from and after the passage of this act, the Secretary of War is hereby authorized to make such compensation to agents for paying pensions as may be just and reasonable, to be paid out of the fund appropriated for the payment of revolutionary pensions, but in no case to exceed two per centum on moneys disbursed by them; the said compensation to be in full for all their services, and any contingent expenses that may arise in the discharge of their official duties, books, printing, and stationery excepted: *Provided,* That the amount of compensation allowed to any one pension agent shall not exceed one thousand dollars per annum: *And, provided further,* That the Secretary of War shall so regulate the remittances made to pension agents as to prevent an undue accumulation of balances in their hands.

[209.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 210.*]

CHAP. 8. An act making further provisions for surviving widows of the soldiers of the revolution.

1. Provision for widows of revolutionary soldiers: Pension to cease on marriage.
2. This act extended to widows who are pensioners by special acts.

APPROVED, FEBRUARY 2, 1848.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That if any person who served in the war of the revolution in the manner specified in the act passed the seventh day of June, eighteen hundred and thirty-two, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the revolution," have died, or shall hereafter die, leaving a widow, whose marriage took place before the first day of January, one thousand seven hundred and ninety-four, such widow shall be entitled to receive, for and during her natural life, from and after the fourth day of March, eighteen hundred and forty-eight, the annuity or pension which might have been allowed to her husband, in virtue of said act, if living at the time it was

passed, under the same rules, regulations, and restrictions as are prescribed in the act approved July seventh, eighteen hundred and thirty-eight, entitled "An act granting half pay and pensions to certain widows:" *Provided*, That in the event of the marriage of such widow, said annuity or pension shall be discontinued.

SEC. 2. *And be it further enacted*, That such widows as have been admitted by special acts of Congress to the benefit of the pension act approved the seventh day of July, one thousand eight hundred and thirty-eight, or to the benefit of the act approved the seventeenth of June, one thousand eight hundred and forty-four, shall be entitled, and shall be admitted to the benefit of this act; subject, however, to the rules, limitations, and restrictions in and by said acts prescribed.

[210.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 239.*]

CHAP. 71. An act making appropriations for the payment of revolutionary and other pensions of the United States for the year ending the thirtieth June, one thousand eight hundred and forty-nine.

1. Revolutionary pensions: Invalid pensions: For widows and orphans: For half pay pensions to widows and orphans: Arrearages. 2. Proviso in act of 7th May, 1846, repealed.

APPROVED, JUNE 26, 1848.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the payment of pensions for the year ending the thirtieth of June, one thousand eight hundred and forty-nine:

For revolutionary pensions, under the act of the eighteenth of March, one thousand eight hundred and eighteen, in addition to an unexpended balance remaining in the treasury of eighty-three thousand eight hundred and seventy-seven dollars and forty-three cents, fourteen thousand one hundred and twenty-two dollars and fifty-seven cents.

For invalid pensions, under various acts, two hundred and sixty thousand dollars.

For pensions to widows and orphans, under the act of the fourth of July, one thousand eight hundred and thirty-six, in addition to an unexpended balance remaining in the treasury of one hundred and fifty-one thousand one hundred and fifty-six dollars and thirty-six cents, thirty-two thousand eight hundred and forty-three dollars and sixty-four cents.

For pensions to widows, under the act of the second February, eighteen hundred and forty-eight, in addition to the unexpended balance of two hundred and sixty-three thousand seven hundred

and twenty-nine dollars and eighty-seven cents remaining in the treasury of a former appropriation for the payment of pensions, under the act of seventeenth June, eighteen hundred and forty-four, one hundred and thirty-six thousand two hundred and seventy dollars and thirteen cents.

For half pay pensions to widows and orphans, payable through the Third Auditor's office, in addition to an unexpended balance remaining in the treasury of eight thousand seven hundred and ninety dollars and four cents, nine thousand five hundred dollars.

For arrearages prior to the first of July, one thousand eight hundred and fifteen, payable through the office of the Second and Third Auditors, in addition to an unexpended balance of three thousand two hundred and one dollars and forty-five cents, eight hundred dollars.

SEC. 2. *And be it further enacted*, That the proviso to the second section of the act entitled "An act making appropriations for the payment of revolutionary and other pensions of the United States for the year ending the thirtieth June, one thousand eight hundred and forty-seven, and for other purposes," approved May seventh, eighteen hundred and forty-six, be and the same is hereby repealed.

[211.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 246.*]

CHAP. 99. An act to extend the provisions of existing pension laws to enlisted men of the ordnance corps of the United States army.

1. Provisions of certain pension laws extended to enlisted men of the ordnance corps; and bounty lands granted to those of them who have served in Mexico.

APPROVED, JULY 10, 1848.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the acts of Congress granting pensions to soldiers disabled by wounds or otherwise, while in the line of their duty in public service, shall be construed to apply to the enlisted men of the ordnance department who have been or may be disabled in the same manner as to non-commissioned officers, artificers, musicians, and privates of other corps of the army, subject to the limitation that in no such case shall the pension exceed the rate of eight dollars per month.

SEC. 2. *And be it further enacted*, That those enlisted men of the ordnance department who have served or may serve in Mexico, during the war with that country, shall be entitled to, and shall receive, the same bounty in land as is or may be allowed by law to other regular troops in the service of the United States, and under like limitations and restrictions.

[212.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 265.*]

CHAP. 120. An act for the relief of certain surviving widows of officers and soldiers of the revolutionary army.

1. Certain widows of revolutionary officers and soldiers to be entitled to a pension of equal amount to that their husbands would be entitled to, if living: No widow now receiving a pension to be entitled to a further pension under this act. 2. No mortgage, sale, assignment, &c., of claims under this act to be valid: Rules of evidence. 3. This act to take effect immediately.

APPROVED, JULY 29, 1848.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the widows of all officers, non-commissioned officers, musicians, soldiers, mariners, or marines, and Indian spies, who shall have served in the continental line, State troops, volunteers, militia, or in the naval service, in the revolutionary war with Great Britain, shall be entitled to a pension during such widowhood, of equal amount per annum that their husbands would have been entitled to, if living, under existing pension laws; to commence on the fourth day of March, eighteen hundred and forty-eight, and to be paid in the same manner that other pensions are paid to widows; but no widow now receiving a pension shall be entitled to receive a further pension under the provisions of this act; and no widow married after the first day of January, one thousand eight hundred, shall be entitled to receive a pension under this act.

SEC. 2. *And be it further enacted*, That any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest, in any way granted by this act, shall be utterly void and of no effect, nor shall the annuities or pension granted by this act be liable to attachment, levy, or seizure by any process of law or equity, but shall enure wholly to the personal benefits of the pensioner or annuitant entitled to the same. The same rules of evidence, regulations, and prescriptions shall apply and govern the Commissioner of Pensions and pension agents under this act as now prevail under existing pension laws which relate to widows of revolutionary officers and soldiers.

SEC. 3. *And be it further enacted*, That this act shall take effect immediately.

[213.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 341.*]

CHAP. 20. An act to continue the office of the Commissioner of Pensions.

1. Office of Commissioner of Pensions continued till further legislation: Salary.

APPROVED, JANUARY 19, 1849.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

the authority given to continue the office of Commissioner of Pensions by the act of the fourteenth of January, eighteen hundred and forty-six, entitled "An act to continue the office of Commissioner of Pensions," be extended until further legislation by Congress; and that said Commissioner shall receive the same rate of compensation which was paid to him during the year ending December thirty-first, eighteen hundred and forty-eight.

[214.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 345.*]

CHAP. 53. An act making appropriations for the payment of revolutionary and other pensions of the United States for the year ending the thirtieth of June, one thousand eight hundred and fifty.

1. Revolutionary pensions, \$28,400: Invalid pensions, \$272,000: For widows and orphans, \$132,000: Half pay pensions to widows and orphans, \$11,764 57: Arrearages, \$1,000. 2. Deputies or clerks of agents for paying pensions may administer oaths.

APPROVED, FEBRUARY 19, 1849.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated out of any money in the treasury not otherwise appropriated, for the payment of pensions for the year ending the thirtieth of June, one thousand eight hundred and fifty:*

For revolutionary pensions, under the act of the eighteenth of March, one thousand eight hundred and eighteen, twenty-eight thousand four hundred dollars.

For invalid pensions, under various acts, two hundred and seventy-two thousand dollars.

For pensions to widows, under the act of the second of February, one thousand eight hundred and forty-eight, one hundred and thirty-two thousand dollars.

For pensions to widows and orphans, under the act of the twenty-first of July, one thousand eight hundred and forty-eight, twenty-four thousand dollars.

For half pay pensions to widows and orphans, under the act of the sixteenth of March, one thousand eight hundred and twelve, and the act of the sixteenth of April, one thousand eight hundred and sixteen, in addition to an unexpended balance remaining in the treasury of eleven thousand seven hundred and sixty-four dollars and fifty-seven cents, payable through the Third Auditor's office, ten thousand dollars.

For arrearages prior to the first of July, one thousand eight hundred and fifteen, under the act of the first of May, one thousand eight hundred and twenty, in addition to an unexpended balance remaining in the treasury of two thousand nine hundred and fourteen dollars and eighty-nine cents, payable through the Third Auditor's office, one thousand dollars.

SEC. 2. *And be it further enacted*, That whenever any agent for paying pensions shall have a deputy or clerk, authorized by law, said deputy or clerk shall have like power to administer oaths or affirmations as said agent may have; and all oaths and affirmations taken before said clerk or deputy, shall be of like obligation, and subject to like penalties for false swearing or affirmation, as if taken before the pension agent himself.

[215.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 347.*]

CHAP. 62. An act granting five years' half pay to certain widows and orphans of officers, non-commissioned officers, musicians, and privates, both regulars and volunteers.

1. How the act of 20th July, 1848, amending the act granting half pay pensions to widows and orphans, is to be construed.

APPROVED, FEBRUARY 22, 1849.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the provisions of the second section of the act entitled "An act amending the act entitled 'An act granting half pay to widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States,' in cases of deceased officers and soldiers of the militia and volunteers," approved July twenty-first, eighteen hundred and forty-eight, shall be so construed as to embrace all widows and orphans of officers, non-commissioned officers, musicians, and privates, whether of the regular army or of volunteers, who have received an honorable discharge, or who remained to the date of their death in the military service of the United States, and who have died, since their return to their usual place of residence, of wounds received or from disease contracted while in line of duty, subject to such rules, regulations, and restrictions, as the Secretary of War, by the third section of said act, is authorized to impose.

[216.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 418.*]

No. 14. Joint Resolution relative to evidence in applications for pensions by widows of deceased soldiers, under the act of July twenty-first, eighteen hundred and forty-eight.

1. What shall be considered satisfactory evidence in applications by certain widows or pensions.

APPROVED, MARCH 3, 1849.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in all

applications for pensions by the widows of deceased soldiers, under the act of July twenty-first, eighteen hundred and forty-eight, the returns on the rolls of the disease of which the soldier died, and the official opinion of the surgeon general founded thereon, that from the nature of the disease it was contracted while the soldier was in the line of his duty, shall be considered satisfactory evidence thereof, without the proof now required at the Pension Office; and that it shall be the duty of the Commissioner of Pensions, in all cases of application for pensions under said act, to apply to the proper officers for said evidence, without requiring the applicant to furnish the same.

[217.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 395.*]

CHAP. 108. An act to establish the Home Department, and to provide for the Treasury Department an Assistant Secretary of the Treasury, and a Commissioner of the Customs.*

1. New Executive Department created, to be called the "Department of the Interior:" Secretary of the Interior—how to be appointed; his salary. 2. Secretary of the Interior to have supervision of the Patent Office. 3. And of the General Land Office. 4. And of the accounts of marshals, clerks, and officers of courts of the United States, &c. 5. And of the Commissioner of Indian Affairs, &c. 6. And of the Commissioner of Pensions, &c. 7. And of the taking and making returns of census, &c. 8. And of the lead and other mines of the United States. 9. And of the Commissioner of Public Buildings, &c.: Proviso. 10. And over the penitentiary of the District of Columbia. 11. Secretary to appoint a chief clerk; his salary: Certain clerks in the Treasury Department to be transferred to the office of Secretary of the Interior: Appointment of clerks. 12. Commissioner of Customs to be appointed; his salary: Clerks to be transferred from office of First Comptroller, and chief clerk to be appointed by Secretary of the Treasury. 13. Assistant Secretary of the Treasury to be appointed; his salary, powers, and duties: Clerk at \$1700 per annum to be appointed. 14. Messengers and portion of the contingent fund to be transferred from First Comptroller's office and Treasury Department to office of Commissioner of Customs and Department of Interior. 15. The powers and duties devolved on the Secretary of the Treasury by the Independent Treasury act not to be impaired.

APPROVED, MARCH 3, 1849.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That,* from and after the passage of this act, there shall be created a new executive department of the government of the United States, to be called the Department of Interior; the head of which department shall be called the Secretary of the Interior, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall hold his office by the same tenure, and receive the same salary, as the Secretaries of the other executive departments, and who shall perform all the duties assigned to him by this act.

* This act is inserted entire on account of the new era it creates in many Departments, and in the Pension Office in particular.

SEC. 2. *And be it further enacted*, That the Secretary of the Interior shall exercise and perform all the acts of supervision and appeal in regard to the office of Commissioner of Patents, now exercised by the Secretary of State; and the said Secretary of the Interior shall sign all requisitions for the advance or payment of money out of the treasury on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the First or Fifth Auditor or First Comptroller of the Treasury.

SEC. 3. *And be it further enacted*, That the Secretary of the Interior shall perform all the duties in relation to the General Land Office, of supervision and appeal, now discharged by the Secretary of the Treasury; and the said Secretary of the Interior shall sign all requisitions for the advance or payment of money out of the treasury, on estimates or accounts, approved or certified by the Commissioner of the General Land Office, subject to the same control now exercised by the First Comptroller of the Treasury.

SEC. 4. *And be it further enacted*, That the supervisory power now exercised by the Secretary of the Treasury over the accounts of the marshals, clerks, and other officers of all the courts of the United States, shall be exercised by the Secretary of the Interior, who shall sign all requisitions for the advance or payment of money out of the treasury, on estimates or accounts, subject to the same control now exercised on like estimates or accounts by the First Auditor and First Comptroller of the Treasury.

SEC. 5. *And be it further enacted*, That the Secretary of the Interior shall exercise the supervisory and appellate powers now exercised by the Secretary of the War Department, in relation to all the acts of the Commissioner of Indian Affairs; and shall sign all requisitions for the advance or payment of money out of the treasury, on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the Second Auditor and Second Comptroller of the Treasury.

SEC. 6. *And be it further enacted*, That the Secretary of the Interior shall exercise the supervisory and appellate powers now exercised by the Secretaries of the War and Navy Departments, in relation to all the acts of the Commissioner of Pensions; and shall sign all requisitions for the advance or payment of money out of the treasury, on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the Third or Fourth Auditors and Second Comptroller of the Treasury.

SEC. 7. *And be it further enacted*, That the Secretary of the Interior shall exercise all the supervisory and appellate powers now exercised by the Secretary of State, in relation to all acts of marshals and others in taking and returning the census of the United States; and shall sign all requisitions for the advance or payment of money out of the treasury, on estimates or accounts, subject to the same adjustment or control now exercised over

similar estimates and accounts by the Fifth Auditor and First Comptroller of the Treasury.

SEC. 8. *And be it further enacted*, That the supervisory and appellate powers now exercised by the Secretary of the Treasury over the lead and other mines of the United States, and over the accounts of the agents thereof, shall be exercised by the Secretary of the Interior; who shall sign all requisitions for the advance or payment of money out of the treasury, on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the Second Auditor and Second Comptroller of the Treasury.

SEC. 9. *And be it further enacted*, That the supervisory and appellate powers now exercised by the President of the United States over the Commissioner of Public Buildings, shall be exercised by the Secretary of the Interior; who shall sign all requisitions for the advance or payment of money out of the treasury, on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the First Auditor and First Comptroller of the Treasury: *Provided*, That nothing in this section contained shall be construed to take from the presiding officers of the two Houses of Congress the power now possessed by them to make and enforce rules and regulations for the care, preservation, orderly keeping, and police of the Capitol, and its appurtenances.

SEC. 10. *And be it further enacted*, That the Secretary of the Interior shall have and exercise a supervisory power and control over the Board of Inspectors and Warden of the Penitentiary of the District of Columbia; and shall sign all requisitions for the advance or payment of money out of the treasury on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the First Auditor and First Comptroller of the Treasury.

SEC. 11. *And be it further enacted*, That the Secretary of the Interior is hereby authorized to appoint a chief clerk of his Department, who shall receive a salary of two thousand dollars per annum; and that the President of the United States, on the recommendation of the said Secretary of the Interior, may transfer from the Treasury Department proper, to the Department of the Interior, such clerks in the office of the Secretary of the Treasury as perform the duties over which the supervision and control are given by this act to the Secretary of the Interior; which said clerks shall be hereafter subject to the appointing and removing power of the Secretary of the Interior, as also the clerks in the several bureaus heretofore appointed or removable by the heads of departments, which bureaus are transferred by this act to the Department of the Interior.

SEC. 12. *And be it further enacted*, That an officer shall be appointed by the President of the United States, by and with the advice and consent of the Senate, in the Department of the Treasury, as one of its bureaus, to be called the Commissioner of

Customs, who shall perform all the acts and exercise all the powers, now devolved by law on the First Comptroller of the Treasury, relating to the receipts from customs and the accounts of collectors and other officers of the customs, or connected therewith; who shall hold his office by the same tenure, and receive the same amount of salary, as the First Auditor of the Treasury, and payable in the same manner. And the Secretary of the Treasury shall transfer from the office of the First Comptroller such clerks as may be necessary to the bureau of the Commissioner of Customs, for whom the said Secretary of the Treasury shall also appoint one chief clerk, at a salary of seventeen hundred dollars per annum.

SEC. 13. *And be it further enacted*, That an officer shall be appointed in the Treasury Department by the Secretary of the Treasury, to be called the Assistant Secretary of the Treasury, whose salary shall be three thousand dollars per annum, payable in the same manner as that of the Secretary of the Treasury, who shall examine all letters, contracts, and warrants, prepared for the signature of the Secretary of the Treasury, and who shall perform all such other duties in the office of the Secretary of the Treasury, now performed by some of his clerks, as may be devolved on him by the Secretary of the Treasury; who shall also appoint a clerk at a salary of seventeen hundred dollars per annum, who shall perform such duties as a clerk in the Treasury Department, in aid of said Assistant Secretary, as may be assigned to him by the Secretary of the Treasury.

SEC. 14. *And be it further enacted*, That the Secretary of the Treasury shall transfer from the office of the First Comptroller one of his messengers, to perform the same duties in the office of the Commissioner of Customs, as also such portion of the contingent fund of the office of the First Comptroller as may be required in that of the Commissioner of Customs, in consequence of the transfer of clerks from one office to another, or the transfer of a messenger from that office to another. And the Secretary of the Treasury shall transfer one of his messengers to the office of the Secretary of the Interior, as also such portion of the contingent fund of the Secretary of the Treasury as may be required in the office of the Secretary of the Interior, in consequence of the transfer of clerks from one department to the other.

SEC. 15. *And be it further enacted*, That nothing in this act contained shall be so construed as to affect or impair any of the powers conferred, or duties devolved, on the Secretary of the Treasury, in relation to the transfer, safe-keeping, or disbursement of public moneys, by the act of the sixth of August, one thousand eight hundred and forty-six, entitled "An act to provide for the better organization of the treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue."

[218.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 444.*]

CHAP. 40. An act making appropriations for the payment of revolutionary and other pensions of the United States for the year ending the thirtieth of June, one thousand eight hundred and fifty-one.

1. Appropriations for pensions for 1850-'51: Revolutionary pensions: Invalid pensions: Pensions to widows and orphans: Pensions to widows, under the act of 7th July, 1838: Pensions to widows, under the act of 1843: Pensions to widows, under the acts of 1844, and 1848: Half pay pensions to widows and orphans, under the acts of 1802 and 1816, in addition to an unexpended balance.

APPROVED, AUGUST 17, 1850.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the payment of pensions, for the year ending the thirtieth of June, one thousand eight hundred and fifty-one:

For revolutionary pensions under the act of the eighteenth of March, one thousand eight hundred and eighteen, forty-seven thousand eight hundred and eighty-three dollars.

For invalid pensions under various acts, three hundred thousand dollars.

For pensions to widows and orphans, under the acts of the fourth of July, eighteen hundred and thirty-six, and twenty-first of July, eighteen hundred and forty-eight, three hundred and sixty thousand six hundred dollars.

For pensions to widows under the act of the seventh of July, one thousand eight hundred and thirty-eight, sixty thousand dollars.

For pensions to widows under the act of the third of March, one thousand eight hundred and forty-three, twenty thousand dollars.

For pensions to widows under the acts of the seventeenth of June, one thousand eight hundred and fourty-four, second of February, one thousand eight hundred and forty-eight, and twenty-ninth of July, one thousand eight hundred and forty-eight, five hundred and eighty-four thousand dollars.

For half pay pensions to widows and orphans, under the act of the sixteenth of March, one thousand eight hundred and twelve,* and the act of the sixteenth of April, one thousand eight hundred and sixteen, in addition to an unexpended balance remaining in the treasury of five thousand two hundred and seventy-nine dollars and fifty cents, payable through the Third Auditor's office, eighteen thousand four hundred and ten dollars.

* This should be March 16, 1802.

[219.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 564.*]

No. 20. Joint Resolution explanatory of certain acts therein mentioned.

Provisions of second section of the "Act granting half pay to widows or orphans," &c., of July 21, 1848, extended.

APPROVED, SEPTEMBER 28, 1850.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the second section of the act entitled "An act amending the act entitled 'An act granting half pay to widows or orphans where their husbands and fathers have died of wounds received in the military service of the United States,'" approved July twenty-one, eighteen hundred and forty-eight, extended by the act of February twenty-two, eighteen hundred and forty-nine, shall be construed to embrace the widows and orphans of all persons designated therein, who died while in actual service in the late war with Mexico, or in going to and returning from the same; and also to the widows and orphans of all such persons as, having been honorably discharged, or having resigned, shall have died after the passage of said last mentioned act, or who may hereafter die, of wounds received or from disease contracted while in said service: *Provided*, That the army rolls showing the death of any of said persons in the army shall be sufficient evidence to establish that fact

[220.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 570.*]

CHAP. 12. An act to supply deficiencies in the appropriations for the service of the fiscal year ending the thirtieth of June, one thousand eight hundred and fifty-one.

APPROVED, FEBRUARY 27, 1851.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated to supply deficiencies in the appropriations for the service of the fiscal year ending the thirtieth of June, one thousand eight hundred and fifty-one, out of any moneys in the treasury not otherwise appropriated, namely: * * *

24. For invalid pensions, under various acts, one hundred and sixty-three thousand dollars.

25. For pensions to widows and orphans, under the acts of the fourth of July, eighteen hundred and thirty-six, and twenty-first July, eighteen hundred and forty-eight, seventy-four thousand eight hundred and twenty dollars.

26. For pensions to widows, under the act of seventh July, one thousand eight hundred and thirty-eight, fifty-six thousand dollars.

27. For pensions to widows, under the act of the third of

March, one thousand eight hundred and forty-three, twelve thousand dollars.

28. For pensions to widows, under the acts of the seventeenth of June, one thousand eight hundred and forty-four, second of February, one thousand eight hundred and forty-eight, and twenty-ninth of July, one thousand eight hundred and forty-eight, forty-four thousand dollars.

[221.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 574.*]

CHAP. 13. An act making appropriations for the payment of revolutionary and other pensions of the United States, for the year ending the thirtieth of June, one thousand eight hundred and fifty-two.

APPROVED, FEBRUARY 27, 1851.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the payment of pensions for the year ending the thirtieth of June, one thousand eight hundred and fifty-two:*

For revolutionary pensions, under the act of the eighteenth of March, one thousand eight hundred and eighteen, fifty-eight thousand dollars.

For invalid pensions, under various acts, five hundred thousand five hundred dollars.

For pensions for widows and orphans, under the acts of July the fourth, one thousand eight hundred and thirty-six, and July the twenty-first, eighteen hundred and forty-eight, six hundred and forty thousand seven hundred and sixty dollars.

For pensions to widows, under the act of seventh July, eighteen hundred and thirty-eight, sixty thousand dollars.

For pensions to widows, under the act of the third of March, eighteen hundred and forty-three, twenty thousand dollars.

For pensions to widows, under the acts of the seventeenth June, eighteen hundred and forty-four, second of February, eighteen hundred and forty-eight, and twenty-ninth of July, eighteen hundred and forty-eight, eight hundred and sixty-two thousand six hundred and forty dollars.

For half pay pensions to widows and orphans, provided for by the eleventh section of an act approved January the twenty-ninth, eighteen hundred and thirteen, and the first and second sections of an act approved the sixteenth of April, eighteen hundred and sixteen, in addition to a balance remaining in the treasury undrawn on the fifteenth of October, eighteen hundred and fifty, of twenty-seven thousand three hundred and fifty-six dollars and nine cents, ten thousand dollars.

[222.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 595.*]

CHAP. 25. An act to found a Military Asylum for the relief and support of invalid and disabled soldiers of the army of the United States.

1. Who are to be members of the asylum. 4. Who entitled to the privileges of the asylum. 5. Discharge on recovery: Pensioners to be entitled to the privileges of the asylum, on transferring their pensions while availing themselves of it. 6. Soldiers convicted of felony, or other disgraceful or infamous crime, excluded from said privileges.

APPROVED, MARCH 3, 1851.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, all soldiers of the army of the United States, and all soldiers who have been, or may hereafter be, of the army of the United States, whether regulars or volunteers, and who have contributed, or may hereafter contribute, according to section seven of this act, to the support of the military asylum hereby created, shall, under the restrictions and provisions which follow, be members of said asylum, with all the rights annexed thereto. * * *

SEC. 4. *And be it further enacted,* That the following persons, members of the army asylum, according to section one, shall be entitled to the rights and benefits herein conferred, and no others, viz: Every soldier of the army of the United States who shall have served, or may serve, honestly and faithfully, twenty years in the same, and every soldier, and every discharged soldier, whether regular or volunteer, who shall have suffered by reason of disease or wounds incurred in the service and the line of his duty, rendering him incapable of further military service, if such disability has not been occasioned by his own misconduct: *Provided,* That no deserter, mutineer, or habitual drunkard, shall be received without such evidence of subsequent service, good conduct, and reformation of character, as the commissioners shall deem sufficient to authorize his admission.

SEC. 5. *And be it further enacted,* That any soldier admitted into this institution, for disability as aforesaid, and who shall recover his health, so as to fit him again for military service, (he being under fifty years of age,) shall be discharged: *Provided,* That any pensioner on account of wounds or disability incurred in the military service, although he may not have contributed to the funds of the institution, shall be entitled to all the benefits herein provided, upon transferring his pension to said asylum, for and during the period that he may voluntarily continue to receive such benefits.

SEC. 6. *And be it further enacted,* That the provisions of the foregoing sections shall not be extended to any soldier in the regular or volunteer service, who shall have been convicted of felony, or other disgraceful or infamous crimes of a civil nature, since he shall have been admitted into the service of the United States.

[223.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 647.*]

No. 6. Joint resolution explaining the acts of seventh July, eighteen hundred and thirty-eight, March third, eighteen hundred and forty-three, and June seventeenth, eighteen hundred and forty-four.

The benefits of the acts of 1838, 1843, and 1844, granting pensions to widows, extended to those whose husbands died after the passage of those acts.

APPROVED, MARCH 3, 1851.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the benefits of the acts of July seventh, eighteen hundred and thirty-eight, granting pensions for five years; of the act of March third, eighteen hundred and forty-three, granting pensions for one year; and of the act of June seventeenth, eighteen hundred and forty-four, extending the act of March third, eighteen hundred and forty-three, for the term of four years, to certain widows, shall not be withheld from any widow whose husband died since the passage of either of said acts, if said widow shall be otherwise entitled to the same: Provided, That no pension shall be granted to said widow for the same time her husband received one.

[224.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 249.*]

CHAP. 108. An act amending the act entitled "An act granting half pay to widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States," in case of deceased officers and soldiers of the militia and volunteers, passed July fourth, eighteen hundred and thirty-six.

1. Provisions of the act of July 4, 1836, granting half pay to widows or orphans, made applicable to all widows or orphans of officers, soldiers, &c., who were in the army 1st March, 1846, and during the present war with Mexico. 2. Widows and orphans herein provided for to receive the same rate of pensions as is provided for in the above act. 3. Pensions under this act to be granted under such rules as the Secretary of War may prescribe.

APPROVED, JULY 21, 1848.

Sec. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the first section of the act entitled "An act granting half pay to widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States, in certain cases, and for other purposes," approved July, fourth, eighteen hundred and thirty-six, shall be applicable to all widows and orphans of officers, non-commissioned officers, musicians, and soldiers, of the army of the United States, who were in the army of the United States on the first day of March, eighteen hundred and forty-six, or at any subse-

quent period during the present war between the United States and Mexico.

SEC. 2. *And be it further enacted*, That all widows and orphans of officers, non-commissioned officers, musicians, and privates, whether of the regular army or of volunteers, who have died since the first day of April, one thousand eight hundred and forty-six, or who may die during the war with Mexico, from wounds received or from disease contracted while in the line of duty, shall be entitled to the same rate of pension as is provided for in the first section of the before mentioned act, under like limitations and restrictions: *Provided*, said death has occurred, or may hereafter occur, while said officers, non-commissioned officers, musicians, or privates, were in the service of the United States, and in the line of duty; or while returning to their usual place of residence in the United States, after having received a discharge upon a surgeon's certificate for disability incurred from wounds received, or disease contracted, while in the line of duty, or while on their march to join the army in Mexico: *And provided further*, That this act shall not be applicable to the widows and orphans of such officers, non-commissioned officers, musicians, or privates, who have not served in Mexico, or at posts or stations on the borders of Mexico, except where such officers, non-commissioned officers, musicians, or privates, have died while on their march to join the army in Mexico.

SEC 3. *And be it further enacted*, That all pensions under this act shall be granted under such rules, regulations, restrictions, and limitations as the Secretary of War, with the approbation of the President of the United States, may prescribe.*

* This act was overlooked in the order of its date; see page 215 for its proper place. The act of July 4, 1836, referred to above, will be found under the head of *Seafencibles, Rangers, &c.*—sequel.

NAVY PENSION LAWS—PROPER;

TOGETHER WITH THE

PENSION PROVISIONS

FOR

MARINES, PRIVATEERSMEN, REVENUE CUTTERS, &c.*

[225.]

[*Laws of the U. S., vol. 3, page 5.*]

CHAP. 7. An act providing a naval armament.

1. President authorized to cause three frigates to be manned and employed. 2. Commissioned officers to be employed on board the frigates. 3. Warrant officers to be appointed by the President. 4. Number and composition of the crews. 11. Wounded or disabled officers and seamen to be placed on the list of invalids: Limitation of the compensation in case of wounds: Proportionate allowance for inferior disabilities.

APPROVED, JULY 1, 1791.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, empowered, should he deem it expedient, to cause the frigates United States, Constitution, and Constellation, to be manned and employed.

SEC. 2. *And be it further enacted,* That there shall be employed on board each of the ships of forty-four guns, one captain, four lieutenants, two lieutenants of marines, one chaplain, one surgeon, and two surgeon's mates; and in the ship of thirty-six guns, one captain, three lieutenants, one lieutenant of marines, one surgeon, and one surgeon's mate.

SEC. 3. *And be it further enacted,* That there shall be employed, in each of the said ships, the following warrant officers, who shall be appointed by the President of the United States, to wit: one sailing master, one purser, one boatswain, one gunner,

* Although it is entirely impracticable to make a complete separation of the legal provisions for military and navy pensions, without mutilating them, when they are too closely interwoven to admit of it; yet, so far as it could be done, that course has been adopted as conducing to the elucidation of their tendency to form distinct systems. And as marine and privateer pension provisions have an essential affinity and alliance with navy pensions, they are also here introduced in that connexion. ¶ It has already been noted at page 1 of this compilation that the early pension provisions for the naval service and disabilities incurred therein, were made in inseparable connexion with those for the military service, and so continued to be, to a considerable extent: in such cases, therefore, they have already been inserted in that connexion, and need not be repeated under this division of navy pensions proper. They will, however, be found satisfactorily referred to in the index.

one sailmaker, one carpenter, and eight midshipmen; and the following petty officers, who shall be appointed by the captains of the ships, respectively, in which they are to be employed, viz: two master's mates, one captain's clerk, two boatswain's mates, one cockswain, one sailmaker's mate, two gunner's mates, one yeoman of the gunroom, nine quarter gunners, (and, for the two larger ships, two additional quarter gunners,) two carpenter's mates, one armorer, one steward, one cooper, one master at arms, and one cook.

SEC. 4. *And be it further enacted*, That the crews of each of the ships of forty-four guns shall consist of one hundred and fifty seamen, one hundred and three midshipmen and ordinary seamen, three sergeants, three corporals, one drum, one fife, and fifty marines; and that the crew of the ship of thirty-six guns, shall consist of one hundred and thirty able seamen and midshipmen, ninety ordinary seamen, two sergeants, two corporals, one drum, one fife, and forty marines, over and above the officers herein before mentioned. * * * * *

SEC. 11. *And be it further enacted*, That if any officer, non-commissioned officer, marine, or seaman, belonging to the navy of the United States, shall be wounded or disabled, while in the line of his duty in public service, he shall be placed on the list of the invalids of the United States, at such rate of pay, and under such regulations, as shall be directed by the President of the United States: *Provided always*, That the rate of compensation to be allowed for such wounds or disabilities, to a commissioned or warrant officer, shall never exceed, for the highest disability, half the monthly pay of such officer at the time of his being so disabled or wounded; and that the rate of compensation to non-commissioned officers, marines, and seamen, shall never exceed five dollars per month: *And provided, also*, That all inferior disabilities shall entitle the person so disabled to receive an allowance proportionate to the highest disability.

[226.]

[*Laws of the U. S., vol. 3, page 241.*]

CHAP. 130. An act for the government of the navy of the United States.

1. Rules and regulations for the government of the navy: Duty of commanders, &c. 5. Captured national ships the property of the United States; other vessels, being superior, the property of the captors; vessels of inferior force to be equally divided. 6. Distribution of prize money and bounty: Any officer having more posts than one, to share according to the superior office only: Ships in sight to share equally; but not privateers: Commanders to transmit a true list of officers and men on board prizes: Rights and privileges of commanders-in-chief, commanders of squadrons, captains, &c., in relation to captures, defined: Captains sailing under special orders, act separately: Bounty on captures. 7. Rates of salvage. 8. Allowance of half pay to persons disabled in the line of duty. 9. Prize money belonging to the United States to be a fund to discharge the half pay: If the fund be more than sufficient, the surplus to be applied, &c. 10. The fund to be under the management of the Secretary of the Navy, Secretary of the Treas-

bury, and the Secretary of War: The Secretaries mentioned to invest the sums in stock: Statement to be laid before Congress.

APPROVED, MARCH 2, 1799.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following rules and regulations be adopted and put in force, for the government of the navy of the United States:

ARTICLE 1. The commanders of all ships and vessels, belonging to the United States, are strictly required to show, in themselves, a good example of honor and virtue to their officers and men; and to be very vigilant in inspecting the behavior of all such as are under them, and to discountenance and suppress all dissolute, immoral, and disorderly practices; and, also, such as are contrary to the rules of discipline and obedience, and to correct those who are guilty of the same, according to the usage of the sea service. * * * * *

SEC. 5. *And be it further enacted,* That all captured national ships or vessels of war be the property of the United States; all other ships or vessels, being of superior force to the vessel making the capture, in men or in guns, shall be the sole property of the captors; and all ships or vessels of inferior force, shall be divided equally between the United States and the officers and men of the vessel making the capture.

SEC. 6. *And be it further enacted,* That the produce of prizes taken by the ships of the United States, and bounty for taking the ships of the enemy, be proportioned and distributed in the manner following, to wit:

1. To the captain, actually on board at the time of taking any prize, being other than public or national vessel, or ship of war, three-twentieths of that portion of the proceeds belonging to the captors.

2. If such captain or captains be under the immediate command of a commander-in-chief, or commander of a squadron having a captain on board, such commander-in-chief, or commander of a squadron, to have one of the said twentieth parts, and the captain taking the prize the other two-twentieth parts.

3. To the sea lieutenants and sailing master, two-twentieths.

4. To marine officers, the surgeon, purser, boatswain, gunner, carpenter, master's mate, and chaplain, two-twentieths.

5. To midshipmen, surgeon's mates, captain's clerk, clergyman, or schoolmaster, boatswain's mates, gunner's mates, carpenter's mates, ship's steward, sailmaker, master at arms, armorer, and cockswain, three-twentieths.

6. Gunner's yeoman, boatswain's yeoman, quartermasters, quarter gunners, cooper, sailmaker's mates, sergeant of marines, corporal of marines, drummer, and fifer, and extra petty officers, three-twentieths.

7. To seamen, ordinary seamen, marines, and boys, seven-twentieths.

8. Any officer on board having more posts than one, is only

entitled to the share belonging to his superior office, according to the regulations aforesaid.

9. Whenever one or more ships of the United States are in sight, at the time of any one or more other ships as aforesaid are taking a prize or prizes, or being engaged with an enemy, and they shall all be so in sight when the enemy shall strike or surrender, they shall share equally, according to the number of guns and men on board of each ship so in sight; but no privateer or armed ship, being in sight of a national ship of war, at the taking of any prize, shall be entitled to any share in such prize or prizes.

10. Commanders of ships of war taking any prize, are to transmit, as soon as possible, to the naval department a true list of the officers and men actually on board at the taking of such prize, inserting therein the quality of every person's rating; and the department aforesaid is to examine the said list by the ship's muster book, to see their agreement, and is to grant certificates of the truth of such list transmitted, in order that the agents appointed by the captors make payment of the shares agreeably to this act.

11. In order to define the rights and privileges of commanders-in-chief, commanders of squadrons, and captains, in relation to captures: no commander-in-chief, or commander of a squadron, shall be entitled to receive any share of prizes taking by the ships of war of the United States that are not put under his immediate command, nor of such prizes as may have been taken previous to such ship's being placed under his command, and until they have acted under his immediate orders; nor shall a commander-in-chief, or commander of a squadron, returning home from any station where he had the command, have any share in prizes taken by ships left on such station, after he has got out of the limits of his said command.

12. Captains, sailing especially under orders from the Navy Department, are clearly to be understood as acting separately from any superior officer.

13. The bounty given by the United States on any national ship of war taken from the enemy and brought into port, shall be, for every cannon mounted, carrying a ball of twenty-four pounds or upwards, two hundred dollars; for every cannon, carrying a ball of eighteen pounds, one hundred and fifty dollars; for every cannon, carrying a ball of twelve pounds, one hundred dollars; and for every cannon carrying a ball of nine pounds, seventy-five dollars; for every smaller cannon, fifty dollars; and for every officer and man taken on board, forty dollars; which sums are to be divided agreeably to the foregoing articles.

SEC. 7. *And be it further enacted*, That for the ships or goods belonging to the citizens of the United States, or to the citizens or subjects of any nation in amity with the United States, if retaken from the enemy within twenty-four hours, the owners are to allow one-eighth part of the whole value for salvage; if after

twenty-four hours, and under forty-eight, one-fifth thereof; if above that, and under ninety-six hours, one-third part thereof; and above that, one-half; all of which is to be paid without any deduction whatsoever, agreeably to the articles herein before mentioned.

Sec. 8. *And be it further enacted*, That every officer, seaman, or marine, disabled in the line of his duty, shall be entitled to receive, for his own life and the life of his wife, if a married man at the time of receiving the wound, one-half his monthly pay.

Sec. 9. *And be it further enacted*, That all the money accruing, or which has already accrued, from the sale of prizes, shall be and remain forever a fund for the payment of the half pay to the officers and seamen who may be entitled to receive the same; and if the said fund shall be insufficient for this purpose, the public faith is hereby pledged to make up the deficiency; but if it should be more than sufficient, the surplus shall be applied as Congress may hereafter direct by law, to the making of further provision for the comfort of the disabled officers, seamen, and marines, and for such as may not be disabled, who may merit, by their bravery, or their long and faithful services, the gratitude of their country.

Sec. 10. *And be it further enacted*, That the said fund shall be under the management and direction of the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, for the time being, who are hereby authorized to receive all such sums as the United States may be entitled to, from the sale of prizes, and to invest the same, and the interest arising therefrom, in such of the six per cent. or other stock of the United States, as a majority of them, from time to time, shall determine to be most advantageous; and it shall be the duty of the said commissioner to lay before Congress, every year, in the first week of their annual meeting, a minute and correct statement of their proceedings, in relation to the management of said fund. * * *

[227.]

[*Laws of the U. S., vol. 3, page 351.*]

CHAP. 187. An act for the better government of the navy of the United States.

1. Rules and regulations for the government of the navy after June 1st, 1800: Commanders to show a good example of virtue: Dissolute practices to be suppressed. * * 5. Proceeds of prizes of equal or superior force to be the sole property of the captors; if of inferior force, to be equally divided. 6. Distribution of prize money belonging to the officers and men. 7. Bounty for each person on board enemy's vessels sunk or destroyed by equal or inferior force. 8. Officers and seamen disabled entitled to pensions. 9. Money accruing to the United States from the sale of prizes, to be a fund for the payment of pensions: If the fund should be more than sufficient, the surplus to be applied for the comfort of disabled officers and seamen. 10. The pension fund to be under the management of the Secretaries mentioned, who are empowered to receive and invest the

sums, &c.: Annual statement to be laid before Congress. 11. The act mentioned repealed.

APPROVED, APRIL 23, 1800.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the first day of June next, the following rules and regulations be adopted and put in force for the government of the navy of the United States:

ART. 1. The commanders of all ships and vessels of war, belonging to the navy, are strictly enjoined and required to show, in themselves, a good example of virtue, honor, patriotism, and subordination; and be vigilant in inspecting the conduct of all such as are placed under their command; and to guard against, and suppress, all dissolute and immoral practices, and to correct all such as are guilty of them according to the usage of the sea service. * * *

SEC. 5. *And be it further enacted,* That the proceeds of all ships and vessels, and the goods taken on board of them, which shall be adjudged good prize, shall, when of equal or superior force to the vessel or vessels making the capture, be the sole property of the captors; and when of inferior force, shall be divided equally between the United States and the officers and men making the capture.

SEC. 6. *And be it further enacted,* That the prize-money, belonging to the officers and men, shall be distributed in the following manner:

1. To the commanding officers of fleets, squadrons, or single ships, three-twentieths, of which the commanding officers of the fleet and squadron shall have one-twentieth, if the prize be taken by a ship or vessel acting under his command, and the commander of single ships, two-twentieths; but where the prize is taken by a ship acting independently of such superior officer, the three-twentieths shall belong to her commander.

2. To sea lieutenants, captains of marines, and sailing masters, two-twentieths; but where there is a captain, without a lieutenant of marines, these officers shall be entitled to two-twentieths and one-third of a twentieth; which third, in such case, shall be deducted from the share of the officers mentioned in article No. 3 of this section.

3. To chaplains, lieutenants of marines, surgeons, pursers, boatswains, gunners, carpenters, and master's mates, two-twentieths.

4. To midshipmen, surgeon's mates, captain's clerks, school-masters, boatswain's mates, gunner's mates, carpenter's mates, ship's stewards, sailmakers, masters-at-arms, armorers, cockswains, and coopers, three-twentieths and an half.

5. To gunner's yeomen, boatswain's yeomen, quartermasters, quartermasters, sailmaker's mates, sergeants and corporals of marines, drummers, fifers, and extra petty officers, two-twentieths and an half.

6. To seamen, ordinary seamen, marines, and all other persons doing duty on board, seven-twentieths.

7. Whenever one or more public ships or vessels are in sight at the time any one or more ships are taking a prize or prizes, they shall all share equally in the prize or prizes, according to the number of men and guns on board each ship in sight.

No commander of a fleet or squadron shall be entitled to receive any share of prizes taken by vessels not under his immediate command; nor of such prizes as may have been taken by ships or vessels intended to be placed under his command, before they have acted under his immediate orders; nor shall a commander of a fleet or squadron, leaving the station where he had the command, have any share in the prizes taken by ships left on such station, after he had gone out of the limits of his said command.

Sec. 7. And be it further enacted, That a bounty shall be paid by the United States, of twenty dollars, for each person on board any ship of an enemy at the commencement of an engagement, which shall be sunk or destroyed by any ship or vessel belonging to the United States of equal or inferior force, the same to be divided among the officers and crew in the same manner as prize money.

Sec. 8. And be it further enacted, That every officer, seaman, or marine, disabled in the line of his duty, shall be entitled to receive for life, or during his disability, a pension from the United States, according to the nature and degree of his disability, not exceeding one-half his monthly pay.

Sec. 9. And be it further enacted, That all money accruing, or which has already accrued, to the United States from the sale of prizes, shall be and remain forever a fund for the payment of pensions and half pay, should the same be hereafter granted, to the officers and seamen who may be entitled to receive the same; and if the said fund shall be insufficient for the purpose, the public faith is hereby pledged to make up the deficiency; but if it should be more than sufficient, the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen, and marines, and for such as, though not disabled, may merit by their bravery, or long and faithful services, the gratitude of their country.

Sec. 10. And be it further enacted, That the said fund shall be under the management and direction of the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, for the time being, who are hereby authorized to receive any sums to which the United States may be entitled from the sale of prizes, and employ and invest the same, with the interest arising therefrom, in any manner which a majority of them may deem most advantageous. And it shall be the duty of the said commissioners to lay before Congress annually, in the first week of their session, a minute statement of their proceedings relative to the management of said fund.

SEC. 11. *And be it further enacted*, That the act passed the second day of March, in the year one thousand seven hundred and ninety-nine, entitled "An act for the government of the navy of the United States," from and after the first day of June next, shall be, and hereby is, repealed.

[228.]

[*Laws of the U. S., vol. 3, page 492.*]

CHAP. 293. An act for the relief of the widows and orphans of certain persons who have died in the naval service of the United States.

1. The widows or children of the officers, seamen, and marines, lost in the ship *Insurgent* and brigantine *Pickering*, to receive four months' pay out of the treasury.

APPROVED, APRIL 29, 1802.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the widows, if any such there be, and, in case there be no widow, the child or children of the officers, seamen, and marines, who were in the service of the United States, and lost in the ship *Insurgent* and brigantine *Pickering*, shall be entitled to and receive, out of any money in the treasury not otherwise appropriated, a sum equal to four months' pay of their respective husbands or fathers, as aforesaid.

[229.]

[*Laws of the U. S., vol. 4, page 448.*]

CHAP. 425. An act declaring war between the United Kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America, and their territories.

1. War declared to exist between Great Britain and the United States: The President authorized to use the whole land and naval force to carry the declaration into effect, and to issue commissions to private armed vessels, &c.

APPROVED, JUNE 18, 1812.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That war be, and the same is hereby, declared to exist between the United Kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America, and their territories; and that the President of the United States is hereby authorized to use the whole land and naval force of the United States to carry the same into effect, and to issue to private armed vessels of the United States commissions, or letters of marque and general reprisal, in such form as he shall think proper, and under the seal of the United States, against the vessels, goods, and effects, of the government of the said United Kingdom of Great Britain and Ireland and the subjects thereof.

[230.]

[*Laws of the U. S., vol. 4, page 449.*]

CHAP. 430. An act concerning letters of marque, prizes, and prize goods.

1. The President empowered to revoke letters of marque, which he may grant in pursuance of the act mentioned. * * 17. Two per cent. on the nett amount of prize money to be secured and paid over to the collector, or to the consul: The moneys arising from the two per cent. paid over, to be held as a fund for the support of widows and orphans of persons slain, and for the maintenance of persons who may be wounded.

APPROVED, JUNE 26, 1812.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the President of the United States shall be, and he is hereby, authorized and empowered to revoke and annul at pleasure all letters of marque and reprisal which he shall or may at any time grant, pursuant to an act entitled "An act declaring war between the United Kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America, and their territories." * * * * *

SEC. 17. *And be it further enacted, That* two per centum on the nett amount (after deducting all charges and expenditure) of the prize money arising from captured vessels and cargoes, and on the nett amount of the salvage of vessels and cargoes recaptured by the private armed vessels of the United States, shall be secured and paid over to the collector, or other chief officer of the customs, at the port or place in the United States at which such captured or recaptured vessel may arrive; or to the consul, or other public agent of the United States, residing at the port or place not within the United States, at which such captured or recaptured vessels may arrive. And the moneys arising therefrom shall be held, and hereby is pledged by the Government of the United States, as a fund for the support and maintenance of the widows and orphans of such persons as may be slain, and for the support and maintenance of such persons as may be wounded and disabled, on board the private armed vessels of the United States, in any engagement with the enemy, to be assigned and distributed in such manner as shall hereafter by law be provided.*

[231.]

[*Laws of the U. S., vol. 4, page 486.*]

CHAP. 475. An act providing navy pensions in certain cases.

1. Widows or children of officers of the navy or marines killed, entitled to half the monthly pay of the deceased for five years: In case of the death or intermarriage of the widow, the half pay to go to the children: The half pay to cease on the death of the children: Money to be paid out of the navy pension fund.

APPROVED, JANUARY 20, 1813.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

* The act of Jan. 27, 1813, in addition to this act, contains nothing relative to pensions.

if any officer of the navy or marines shall be killed or die, by reason of a wound received in the line of his duty, leaving a widow, or, if no widow, a child or children, under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death, which allowance shall continue for and during the term of five years; but in case of the death or intermarriage of such widow, before the expiration of the said term of five years, the half pay for the remainder shall go to the child or children of the said deceased officer: *Provided*, That such half pay shall cease on the death of such child or children; and the money required for this purpose shall be paid out of the navy pension fund, under the direction of the commissioners of that fund.

[232.]

[*Laws of the U. S., vol. 4, page 498.*]

CHAP. 487. An act regulating pensions to persons on board private armed ships.

1. The two per cent. reserved in the hands of the collectors and consuls, to be paid into the treasury. 2. The Secretary of the Navy required to place officers, seamen, &c., of private armed vessels, wounded, on the pension list: Rates of pension: The pensions to be paid out of the fund specified only. 3. Commanding officers to enter the names of wounded persons in their journals. 4. Collectors to transmit quarterly a transcript of the journals to the Secretary of the Navy.

APPROVED, FEBRUARY 13, 1813.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the two per centum reserved in the hands of the collectors and consuls, by the act of June, eighteen hundred and twelve, entitled "An act concerning letters of marque, prizes, and prize goods," shall be paid to [into] the treasury, under the like regulations provided for other public money, and shall constitute a fund for the purposes provided for by the seventeenth section of the before mentioned act.*

SEC. 2. *And be it further enacted*, That the Secretary of the Navy be authorized and required to place on the pension list, under the like regulations and restrictions as are used in relation to the navy of the United States, any officer, seaman, or marine, who, on board of any private armed ship or vessel bearing a commission of letter of marque, shall have been wounded, or otherwise disabled, in any engagement with the enemy; allowing to the captain a sum not exceeding twenty dollars per month; to lieutenants and sailing master, a sum not exceeding twelve dollars each per month; to marine officer, boatswain, gunner, carpenter, master's mate, and prize masters, a sum not exceeding ten dollars each per month; to all other officers, a sum not exceeding eight dollars each per month; for the highest rate of disability, and so in proportion; and to a seaman, or acting as a

* See act of that date, No. [230.]—ante.

marine, the sum of six dollars per month, for the highest rate of disability, and so in proportion; which several pensions shall be paid, by direction of the Secretary of the Navy, out of the fund above provided, and from no other.

SEC. 3. *And be it further enacted*, That the commanding officer of every vessel having a commission, or letters of marque and reprisal, shall enter in his journal the name and rank of any officer, and the name of any seaman, who, during his cruize, shall have been wounded or disabled as aforesaid, describing the manner and extent, as far as practicable, of such wound or disability.

SEC. 4. *And be it further enacted*, That every collector shall transmit, quarterly, to the Secretary of the Navy, a transcript of such journals as may have been reported to him, so far as it gives a list of the officers and crew, and the description of wounds and disabilities, the better to enable the Secretary to decide on claims for pensions.

[233.]

[*Laws of the U. S., vol. 4, page 522.*]

CHAP. 516. An act rewarding the officers and crew of the frigate Constitution, and the officers and crew of the Wasp.

1. \$50,000 as prize money to be distributed to Capt. Hull, &c., for the capture and destruction of the British frigate *Guerriere*; \$50,000 to Capt. Bainbridge, &c., for the capture and destruction of the *Java*; and \$25,000 to Capt. Jones, &c., for the capture of the *Frolic*: \$125,000 appropriated.

APPROVED, MARCH 3, 1813.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he is hereby, authorized to have distributed, as prize money, to Captain Isaac Hull, of the frigate Constitution, his officers and crew, the sum of fifty thousand dollars, for the capture and destruction of the British frigate *Guerriere*; and the like sum, in like manner, to Captain William Bainbridge, his officers and crew, for the capture and destruction of the British frigate *Java*; and the sum of twenty-five thousand dollars, in like manner, to Captain Jacob Jones, of the sloop-of-war *Wasp*, his officers and crew, for the capture of the British sloop-of-war *Frolic*; and that the sum of one hundred and twenty-five thousand dollars, out of any money in the treasury not otherwise appropriated, be, and the same is hereby, appropriated for the purposes aforesaid.

[234.]

[*Laws of the U. S., vol. 4, page 543.*]

CHAP. 538. An act to relinquish the claims of the United States to certain goods, wares, and merchandise, captured by private armed vessels.

1. All right and claim accrued to the United States, under the acts mentioned, to the property of British subjects, shipped since the declaration of war and captured by private

armed vessels, relinquished in all cases where they have been condemned for the benefit of the captors: Suits commenced on behalf of the United States to be discontinued on payment of costs, &c: In all cases where goods libelled are not condemned for the benefit of the captors, the right of the United States to the forfeiture to remain unimpaired: Nothing herein to extend to any capture made in violation of the additional instructions of the President. 2. No future decision made by the Secretary of the Treasury to affect the claims of captors. 3. All goods captured, and libelled, to pay the same duties as provided by the act concerning letters of marque.

APPROVED, JULY 13, 1813.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all right and claim which may have accrued to the United States, under an act entitled "An act to prohibit the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" and an act entitled "An act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" and an act supplementary to the last mentioned act, to goods, wares, and merchandise, being the property of British subjects, and shipped from the ports of the United Kingdom of Great Britain and Ireland, since the declaration of war by the United States against that kingdom, which have been captured by private armed vessels of the United States, on the high and open seas, and without the territorial limits and jurisdiction of the United States, and have been libelled and claimed, by or in behalf of the owners and other persons interested in the said private armed vessels, in some court of the United States having competent jurisdiction thereof, be, and the same are hereby, relinquished in all cases where such goods, wares, and merchandise, being the property of British subjects, and captured as aforesaid, shall have been, or shall be, condemned as prize of war, for the benefit of the captors, by the final judgment of any court of the United States having jurisdiction as aforesaid; all suits, libels, or prosecutions, instituted or commenced in behalf of the United States, for the recovery of any forfeiture or penalty, accrued by reason of an infraction of any of the three acts first above mentioned, affecting any goods, wares, or merchandise, the property of British subjects, and which have been captured as aforesaid, and libelled in behalf of the captors, shall be discontinued on payment of the costs accrued on such suits or libels, by or on behalf of the said owner or owners. But in all cases where goods, wares, and merchandise, thus libelled, shall not be condemned as aforesaid for the benefit of the captors, the right and claim of the United States to the forfeiture of such goods, wares, and merchandise, shall, notwithstanding the discontinuance of the suits and libels in behalf of the said States, remain unimpaired, and such forfeitures may, after a final decision against the captors, be recovered or remitted in conformity with the provisions of the several laws now in force, in the same manner as if such suits or libels had not been discontinued: *Provided,* That nothing herein contained shall extend to

or embrace any capture made by such private armed vessels in violation of the additional instructions of the President of the United States, to the public and private armed vessels thereof, of the twenty-eight day of August, in the year one thousand eight hundred and twelve,* after the captor shall have been apprised thereof, or by any such private armed vessel which was in any port of the United States subsequent to the said proclamation, and prior to such capture.

SEC. 2. *And be it further enacted*, That no decision which may hereafter be made by the Secretary of the Treasury, under the act entitled "An act directing the Secretary of the Treasury to remit fines, forfeitures, and penalties in certain cases," shall be held as affecting the claim of any person or persons claiming as captors any goods, wares, or merchandise, the forfeiture of which to the United States shall have been remitted by such decision.

SEC. 3. *And be it further enacted*, That all goods, wares, and merchandise, captured and libelled as aforesaid, shall pay the same duties, to be secured and collected in the same manner as is provided by the act "concerning letters of marque, prizes, and prize goods," with respect to the like goods, wares, and merchandise, when captured from the enemy, and made prize of war.

[235.]

[*Laws of the U. S., vol. 4, page 652.*]

CHAP. 608. An act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States.

1. Officers, seamen, or marines, on board private armed vessels, dying or having died by reason of wounds, their widows or children to be placed on the pension list at half the monthly pension to which the rank of the deceased would have entitled him under the act mentioned, for five years: In case of the death or intermarriage of the widow, the pension to go to the children: The pensions hereby directed, to be paid out of the fund provided by the 17th section of the act mentioned. 2. Any seaman or marine of the navy dying, or any officer of the navy having died, by reason of wounds, their widows or children to receive half their monthly pay, for five years: If the widow dies or marries, the half pay to go to the children: The money to be paid out of the navy pension fund.

APPROVED, MARCH 4, 1814.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

* *Additional instructions to the public and private armed vessels of the United States.*

The public and private armed vessels of the United States are not to interrupt any vessels belonging to citizens of the United States, coming from British ports to the United States, laden with British merchandise, in consequence of the alleged repeal of the British orders in council; but are, on the contrary, to give aid and assistance to the same; in order that such vessels and their cargoes may be dealt with on their arrival as may be decided by the competent authorities.

By command of the President of the United States of America,

JAMES MONROE,
Secretary of State.

WASHINGTON CITY, August 28, 1812.

if any officer, seaman, or marine, serving on board of any private armed ship or vessel, bearing a commission of letter of marque, shall die, or shall have died since the eighteenth day of June, in the year of our Lord one thousand eight hundred and twelve, by reason of a wound received in the line of his duty, leaving a widow, or if no widow, a child or children under sixteen years of age, such widow, or if no widow, such child or children, shall be placed on the pension list by the Secretary of the Navy, who shall allow to such widow, child or children, half the monthly pension to which the rank of the deceased would have entitled him, for the highest rate of disability, under "An act regulating pensions to persons on board private armed ships;" which allowance shall continue for the term of five years; but in case of the death or intermarriage of such widow before the expiration of the term of five years, the half pay, for the remainder of the term, shall go to the child or children of the deceased: *Provided*, That the half pay shall cease on the death of such child or children. And the several pensions hereby directed shall be paid, by direction of the Secretary of the Navy, out of the fund provided by the seventeenth section of an act entitled "An act concerning letters of marque, prizes, and prize goods," and from no other

SEC. 2. *And be it further enacted*, That if any seamen or marine belonging to the navy of the United States shall die, or if any officer, seaman, or marine, belonging to the navy of the United States shall have died, since the eighteenth day of June, in the year of our Lord one thousand eight hundred and twelve, by reason of a wound received in the line of his duty, leaving a widow, or, if no widow, a child or children, under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death, which allowance shall continue for the term of five years; but in case of the death or intermarriage of such widow, before the expiration of the said term of five years, the half pay, for the remainder of the term, shall go to the child or children of the deceased: *Provided*, That such half pay shall cease on the death of such child or children. And the money required for this purpose shall be paid out of the navy pension fund, under the direction of the commissioners of that fund.

[236.]

[*Laws of the U. S., vol. 4, page 835.*]

CHAP. 770. An act authorizing the purchase of the vessels captured on lake Champlain.

1. The President authorized to purchase the British vessels captured on lake Champlain: The amount to be distributed as prize money.

APPROVED, MARCH 3, 1815.

SEC. 1. *Be it enacted by the Senate and House of Representatives of America in Congress assembled, That*

the President of the United States be, and he is hereby, authorized to cause to be purchased the British vessels which were captured on lake Champlain by the American squadron, on the eleventh day of September, in the year eighteen hundred and fourteen; and the amount of the valuation of such captured vessels, when duly made and returned to the Navy Department, shall be distributed as prize money among the captors or their heirs.

[237.]

[*Laws of the U. S., vol. 6, page 27.*]

CHAP. 37. An act placing certain persons on the list of navy pensioners.

1. The Secretary of the Navy to place on the list of pensioners the persons wounded at Dartmoor prison, and the widows and children of those killed or who died of wounds received there. 2. This act to take effect from the 6th of April, 1815.

APPROVED, APRIL 2, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy be, and he is hereby, authorized and required to place on the list of navy pensioners, those persons who were wounded at Dartmoor prison, in England, in the month of April, one thousand eight hundred and fifteen; also, the widows and children of such as were killed, or who died in consequence of wounds received there; and that, in the allowance of pensions to the persons aforesaid, the regulations established by law, in relation to the placing persons on the list of navy pensioners, be observed.

SEC. 3. *And be it further enacted,* That this act shall be construed to take effect from the sixth day of April, in the year one thousand eight hundred and fifteen.

[238.]

[*Laws of the U. S., vol. 6, page 64.*]

CHAP. 56. An act in addition to an act, entitled "An act in relation to the navy pension fund."

1. Proceeds of sales of prizes captured by public armed ships, to be paid by the marshal into the registry of the court within thirty days, and the clerk immediately to deposit the same in some bank to be designated by the judges of the court: When the prizes are condemned, the court is to direct the share of the United States to be carried to the credit of the Treasurer: The share of the captors to be paid over upon the order of the court or judge. 2. Marshals and clerks to settle their accounts in prize cases within sixty days after final adjudication, unless the court assigns a different time: The courts in term, or judges in vacation, may summarily examine and allow the accounts; a copy of which is to be filed, and one sent to the Secretary of the Navy. 3. District attorneys to transmit to the Secretary of the Navy a statement of prizes captured, condemned, or restored. 4. The courts empowered to issue monitions to compel the marshals and clerks to obey the requisitions of this act: And may summarily hear and examine, and decree

according to justice and law: The marshal or clerk neglecting or refusing to obey the requisitions of this act forfeits five hundred dollars. 5. The accountant of the Navy Department allowed three hundred dollars per annum for extra services in settling accounts of prize money of the navy pension fund. 6. Marshals to account for sales of prizes prior to this act within six months, or sooner if directed by the court: Clerks to present their accounts of fees and charges within six months, or sooner if required by the court: After accounts have been allowed they are to be filed, and copies sent to the Secretary of the Navy: If the marshal or clerk neglect or refuse they may be proceeded against. 7. In cases where the half monthly pay to officers, seamen, and marines, is not sufficient for their subsistence, it may be increased, but not to exceed full pay.

APPROVED, APRIL 16, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, in all cases of prizes captured by the public armed ships of the United States, which shall be sold under the order of the proper prize court, by interlocutory and final decree, it shall be the duty of the marshal of the United States making the sale to pay the proceeds thereof into the registry of the proper court, within thirty days after such sale shall be made and closed; and immediately upon the payment into the registry of the proceeds as aforesaid, it shall be the duty of the clerk of the court to deposit the same in some bank, to be designated by the judge or judges of the court, subject to the order and distribution of the court as in other cases; and when the said prizes shall have been duly condemned, it shall be the duty of the court to direct the share of such prizes belonging to the United States to be forthwith carried, in the account with such bank, to the credit of the Treasurer of the United States, on account of the navy pension fund, and copies of the certificate of such deposit and credit shall be thereupon transmitted to the Treasurer of the United States and to the Secretary of the Navy, as soon as may be, by the clerk of such court; and the share of such prizes belonging to the captors, deposited as aforesaid, shall be paid over to the parties entitled, or to their authorized agent or agents, upon the order of the proper court in term, or of the judge or judges of such court in vacation.

SEC. 2. *And be it further enacted*, That it shall be the duty of the marshals of the several districts of the United States, and of the clerks of the respective courts of the United States, to state and settle their respective accounts in all cases of prizes captured as aforesaid, specifying therein all costs and charges taxed, claimed, and paid, by them, and to submit the same to the proper court having cognizance thereof, for examination and allowance, within sixty days after a final adjudication of such causes, unless a different time shall be assigned by such court; and thereupon such courts in term, or any judge thereof in vacation, may proceed summarily to hear, examine, and allow, the same accounts; and, after such allowance, one copy of the same accounts shall be filed among the records of the court, and another copy shall be transmitted, by the clerk of the court, to the Secretary of the Navy, within thirty days after the allowance thereof.

SEC. 3. *And be it further enacted*, That it shall be the duty of the district attorneys of the respective districts of the United States, to transmit to the Secretary of the Navy a statement of all prizes captured as aforesaid, which shall be libelled, condemned, or restored, at each term of the district and circuit courts, within their respective districts, as soon as may be after the conclusion of each term, and to accompany such list with a schedule and invoice of the various articles composing the cargoes of such prizes.

SEC. 4. *And be it further enacted*, That the respective courts of the United States, before whom a libel against any prizes captured as aforesaid shall be pending, or by whom a decree of condemnation and distribution of such prizes shall have been awarded, shall have full power and authority, in the exercise of their admiralty and maritime jurisdiction, to issue a monition, and other proper process, to compel the marshal and clerk to perform and obey the requisitions of this act; and upon the complaint of the United States, or any person interested in the premises, summarily to hear and examine the same, and to make such award, order, and decree, therein, as to justice and law shall appertain. And if the marshal or clerk shall wilfully refuse, or unreasonably neglect, to perform and obey any of the requisitions of this act, the party so refusing or neglecting shall further forfeit and pay to the United States the sum of five hundred dollars for every such refusal or neglect.

SEC. 5. *And be it further enacted*, That there shall be allowed to the accountant of the Navy Department, for his extra services in collecting, stating, and settling the accounts of prize money belonging to the navy pension fund, the annual sum of three hundred dollars, to be paid quarter yearly, out of the navy pension fund.

SEC. 6. *And be it further enacted*, That wherever sales of prizes captured as aforesaid, have been made before the passing of this act, and the proceeds thereof have not been paid into the registry of the proper court, or finally distributed under its order, it shall be the duty of the marshal who made the sale, within six calendar months from the passing of this act, or such shorter reasonable time as may be assigned by the court, or the judge or judges thereof, to pay into the registry of the court the proceeds of such sale, with a written account of the costs and charges attending the same, and to submit the same account for examination and allowance to the court, or the judge or judges thereof; and in like manner it shall be the duty of the respective clerks of the district courts, within six calendar months from the passing of this act, or such shorter reasonable time as may be assigned by the proper court, or the judge or judges thereof, to present to such court, or the judge or judges thereof, for examination and allowance, a particular account of their fees and charges, in all cases of prizes captured as aforesaid, where such account has not been already presented and allowed; and after such account shall be

examined and allowed, it shall be filed among the records of the court, and a copy thereof, duly attested, shall be transmitted by the clerk of the court to the Secretary of the Navy; and if any marshal or clerk shall neglect or refuse to perform the duties herein required, he may be proceeded against in the proper court, in the manner provided in the fourth section of this act.

SEC. 7. *And be it further enacted*, That in cases where the allowance of the half monthly pay, which may now be granted by law, to officers, seamen, and marines, disabled in the service of the United States, shall, in the opinion of the Commissioners of the Navy Pension Fund, from the nature and extent of the disability, and the situation of the party disabled, be inadequate to his necessary subsistence, the said Commissioners shall be, and hereby are, authorized, in their discretion, to increase such allowance, to any sum not exceeding the full amount of the monthly pay to which the party so disabled was by law entitled in the said service.

[239.]

[*Laws of the U. S.*, vol. 6, page 77.]

CHAP. 65. An act respecting the late officers and crew of the sloop of war *Wasp*.

1. Twelve months' wages to be paid to the representatives of the officers and crew; and 50,000 dollars as prize money, for the capture of the British vessels *Reindeer* and *Avon*. 2. Distribution of the wages and prize money: Shares not claimed to go to the navy pension fund: If only one child, the widow to have an equal share. 3. Secretary of the Navy to appoint a prize agent: Money not claimed under this act within two years, to be a part of the navy pension fund.

APPROVED, APRIL 20, 1816.

Whereas there is reason to apprehend that the sloop of war *Wasp*, an armed ship of the United States, and lately commanded by captain Johnson Blakely, is lost:—

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be allowed and paid to the representatives of captain Johnson Blakely, and of each of the officers and crew aforesaid, as is hereinafter directed, twelve months' wages; and that there be paid to the aforesaid representatives, and to the survivors of said officers and crew, if such there be, the sum of fifty thousand dollars, to be distributed as prize money for the capture and destruction, by said sloop of war, of the British armed vessels *Reindeer* and *Avon*.

SEC. 2. *And be it further enacted*, That the distribution of said wages and compensation shall be as follows, viz: one-third to the widow, and two third parts to the children of the deceased; and in case there be no child, the whole to the widow; and if there be no widow, then to the child or children; and if there be neither widow nor child, then to the parent or parents; and if there be no parent, then to the brothers and sisters; and if there be neither brother nor sister, then such share or shares, not claimed

as aforesaid, shall be and remain part of the navy pension fund; and the sums aforesaid shall be paid out of any moneys in the treasury not otherwise appropriated: *Provided*, That in all cases in which there shall be only one child, the widow shall have an equal share with the child.

SEC. 3. *And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized and required to appoint a prize agent, whose duty it shall be to disburse the moneys aforesaid, or to refund any balance thereof, under such rules and regulations as the said Secretary may prescribe; and that all moneys not claimed by virtue of this act, within two years from the day when said sums shall be put at the disposal of the said prize agent, shall be deemed and held a part of the navy pension fund.

[240.]

[*Laws of the U. S., vol. 6, page 86.*]

CHAP. 79. An act rewarding the officers and crew of the Constitution, for the capture of the British sloop of war *Levant*.

1. \$25,000 to be distributed to Capt. Stewart, his officers and crew, as prize money, for the capture of the *Levant*: \$25,000 appropriated.

APPROVED, APRIL 26, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he hereby is, authorized to have distributed, as prize money, to Captain Charles Stewart, late of the frigate Constitution, his officers and crew, the sum of twenty-five thousand dollars, for the capture of the British sloop of war *Levant*; and that the sum of twenty-five thousand dollars, out of any money in the treasury not otherwise appropriated, be, and the same is hereby, appropriated for the purpose aforesaid.

[241.]

[*Laws of the U. S., vol. 6, page 104.*]

CHAP. 106. An Act allowing pay to certain persons made prisoners with the revenue cutter "*Surveyor*."

1. The Secretary of the Treasury to settle the accounts for pay of the boatswain, gunner, cook, and 10 marines, captured in the revenue cutter *Surveyor* during the late war; and to settle with S. Traverse, master of the cutter.

APPROVED, APRIL 27, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized to settle the accounts for pay of the boatswain, gunner, cook, and ten marines, captured on board the revenue cutter *Surveyor*, during the late war with Great Britain, up to the period of their

release and return from captivity; and to pay the amount to them, or their legal representatives, out of any moneys in the treasury not otherwise appropriated: And the Secretary of the Treasury is hereby authorized to settle with Samuel Traverse, late master of the cutter Surveyor, and pay him up to the seventeenth day of May, one thousand eight hundred and fourteen.

[242.]

[*Laws of the U. S., vol. 6, page 115.*]

CHAP. 119. An act providing for the distribution of one hundred thousand dollars among the captors of the Algerine vessels captured and restored to the Dey of Algiers.

1. \$100,000 to be paid out of the treasury and distributed as prize money among the captors of the Algerine vessels taken by the squadron under Commodore Decatur.

APPROVED, APRIL 27, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sum of one hundred thousand dollars be, and the same is hereby, appropriated, to be paid out of any moneys in the treasury not otherwise appropriated, and distributed in the same proportions, and under the same regulations, as prize money is now by law directed to be distributed, among the captors of the Algerine vessels captured by the American squadron under the command of Commodore Decatur, and afterwards restored to the Dey of Algiers.

[243.]

[*Laws of the U. S., vol. 6, page 118.*]

CHAP. 124. An act for the relief of George T. Ross, Daniel T. Patterson, and the officers and men lately under their command.

1. Not exceeding \$50,000 of the forfeitures and penalties accrued to the United States by the condemnation and sale of vessels and cargoes taken near the island of Barrataria, on the 16th of September, 1814, relinquished in favor of the captors: The Secretary of the Treasury to pay the \$50,000 out of money in the treasury; to be distributed among the land and naval forces employed, as the Secretaries of War and Navy may prescribe.

APPROVED, APRIL 27, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That so much of the net proceeds of the forfeitures and penalties, not exceeding fifty thousand dollars, as has accrued to the United States by the condemnation and sale of the vessels and their cargoes, which were taken near the Island of Barrataria, on the western coast of Louisiana, on the sixteenth day of September, one thousand eight hundred and fourteen, by a land and naval

force under the command of Colonel George T. Ross and Captain Daniel T. Patterson, and which were condemned and sold by order of the district court of the United States for the Orleans district, for violation of laws of the United States, be, and the same are hereby, given up and relinquished in favor of the said George T. Ross and Daniel T. Patterson, and of their officers and men, for their zeal, activity, and courage, in capturing the same. And the Secretary of the Treasury is hereby authorized to pay to the said George T. Ross and Daniel T. Patterson the amount of the said net proceeds of the said sale, not exceeding fifty thousand dollars, out of any money in the treasury not otherwise appropriated, to be distributed among the land and naval forces employed in the capture of the said vessels, in such proportions, and under such regulations, as the Secretaries of War and Navy, with the approbation of the President, shall prescribe and determine.

[244.]

[*Laws of the U. S., vol. 6, page 128.*]

CHAP. 145. An act authorizing payment for prisoners captured by private armed vessels.

1. The Secretary of the Treasury to pay the owners, officers, and crews, of private armed vessels, the bounty allowed for prisoners captured before the treaty of peace took effect in the latitude of capture, out of moneys in the treasury.

APPROVED, APRIL 29, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and required to settle and pay unto the owners, officers, and crew, of private armed vessels, the bounty allowed by law for prisoners captured and brought into port, and delivered to the agent of the United States, captured on board any British vessel after the exchange of the ratifications of the treaty of peace between the United States and Great Britain, but before the said treaty took effect in the latitude wherein the capture was made; and the Secretary of the Treasury is hereby authorized to pay the aforesaid claims out of any moneys in the treasury not otherwise appropriated.

[245.]

[*Laws of the U. S., vol 6, page 173.*]

CHAP. 192. An act granting a pension to Commodore Richard Taylor.

1. \$300 per annum allowed Commodore Richard Taylor, from 3d September, 1816, for a disability from a wound received in a conflict with the enemy.

APPROVED, MARCH 1, 1817.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from

and after the third day of September, one thousand eight hundred and sixteen, a pension of three hundred dollars per annum be allowed to Commodore Richard Taylor, in consequence of a total disability arising from a wound received in a conflict with the enemy in the revolutionary war, while in the command of a flo-tilla in the waters of the Chesapeake, under a commission of captain in the navy from the State of Virginia; to be paid to him, the said Taylor, half yearly, out of any moneys in the treasury not otherwise appropriated by law.

[246.]

[*Laws of the U. S., vol. 6, page 206.*]

CHAP. 228. An act for the relief of the widows and orphans of the officers, seamen, and marines, who were lost in the U. S. brig Epervier.

1. The widows, orphans, &c., of officers and men lost in the Epervier, to receive six months' pay additional: The amount to be paid out of money in the treasury.

APPROVED, MARCH 3, 1817.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the widows, if any such there be, and, in case there be no widow, the child or children; if there be no child, then to the parents or parent, and if there be no parent, then to the brothers and sisters of the officers, seamen, and marines, who were in the service of the United States and lost in the brig Epervier, shall be entitled to, and receive, out of any money in the treasury not otherwise appropriated, a sum equal to six months' pay of their respective deceased relatives aforesaid, in addition to the pay due to the said deceased on the fourteenth day of July, one thousand eight hundred and fifteen, to which day the arrears of pay due the deceased shall be allowed and paid by the accounting officers of the Navy Department.

[247.]

[*Laws of the U. S., vol 6, page 212.*]

CHAP. 233. An act to amend and explain an "Act giving pensions to the widows and orphans of persons slain in the public or private armed vessels of the United States." *

1. Widows, and children under sixteen years of age, of officers, seamen, and marines, deceased or dying after the 18th June, 1812, while in the line of duty, entitled to half pay for five years: If the widow dies or marries, the half pay goes to the children: Money to be paid out of the navy pension fund.

APPROVED, MARCH 3, 1817.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any officer, seaman, or marine, belonging to the Navy of the

* See act of 4th March, 1814, No. [235.]—ante.

United States, shall die, or shall have died, since the eighteenth day of June, in the year of our Lord one thousand eight hundred and twelve, in consequence of disease contracted, or of casualties or injuries received, while in the line of his duty, and which shall be satisfactorily proved to the commissioners of the navy pension fund, leaving a widow, or, if no widow, a child or children, under sixteen years of age, such widow, or, if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death, which allowance shall continue for the term of five years; but in case of the death or intermarriage of such widow, before the expiration of the said term of five years, the half pay, for the remainder of the term, shall go to the child or children of the deceased: *Provided*, That such half pay shall cease on the death of such child or children. And the money required for this purpose shall be paid out of the navy pension fund, under the direction of the commissioners of that fund.

[248.]

[*Laws of the U. S., vol. 6, page 291.*]

CHAP. 347. An act in addition to an "Act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States."

1. Persons put on the pension list in virtue of the 1st section of the act of 4th March, 1814, to be allowed full monthly pension for the further term of five years: Pension to cease on death of the widow. 2. Widows and children of officers, seamen, &c., who have died from accidents in the service since 18th June, 1812, to be placed on the pension list: The money to be paid out of the privateer fund.

APPROVED, APRIL 16, 1818.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in every case where a person has been put on the pension list, or granted a certificate of pension, by virtue of the first section of an act passed the fourth day of March, in the year eighteen hundred and fourteen, entitled "An act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," the Secretary of the Navy be, and he is hereby, authorized, at the expiration of the term of five years, for which any pension certificate shall have been granted as aforesaid, to allow the full monthly pension to which the rank of the deceased would have entitled him for the highest rate of disability, and that such pension shall continue to such person for the further term of five years: *Provided*, That such pension shall cease on the death of such widow, child, or children.

SEC. 2. *And be it further enacted*, That if any officer, seaman, or marine, shall have died since the eighteenth day of June, in the year eighteen hundred and twelve, in consequence of an accident or casualty, which occurred while in the line of his duty on board a private armed vessel, leaving a widow, or if no widow,

a child or children under sixteen years of age, the Secretary of the Navy be, and he is hereby, authorized to place such widow, child, or children, on the pension list, and allow to such widow, child, or children, the same monthly pension as if the deceased had died by reason of wounds received in the line of his duty: *Provided*, That all moneys paid by virtue of this act shall be paid out of the privateer pension fund, and no other.

[249.]

[*Laws of the U. S., vol. 6, page 366.*]

CHAP. 426. An act authorizing the distribution of a sum of money among the representatives of Commodore Edward Preble, and the officers and crew of the brig Syren.

1. \$2,500 appropriated as prize money among the representatives of Commodore Preble, Captain Stewart, officers, and crew, of the Syren, their proportion of the appraised value of the brig Transfer, captured by the Syren.

APPROVED, FEBRUARY 4, 1819.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the sum of two thousand five hundred dollars is hereby appropriated, out of any money in the treasury not otherwise appropriated; which sum shall be distributed by the Secretary of the Navy, as prize money, among the representatives of Commodore Edward Preble, deceased, and Captain Charles Stewart, the officers and crew of the brig of war Syren, or to the representatives of such as may be dead, on account of their proportion of the sum of five thousand dollars, the appraised value of the brig Transfer, captured by the said brig Syren, for a breach of the blockade of the port of Tripoli, in the year eighteen hundred and four, during the war carried on by the United States against that power; the said brig Transfer having been taken into the service of the United States by Commodore Edward Preble, commander of the blockading squadron, which brig was regularly condemned, as a good prize, by sentence of a court of admiralty.

[250.]

[*Laws of the U. S., vol. 6, page 399.*]

CHAP. 470. An act extending the term of half pay pensions to the widows and children of certain officers, seamen, and marines, who died in the public service.

1. Five years' additional half pay to the widows and children of officers, seamen, and marines, killed in battle, or who died in service: To be paid as designated by law.

APPROVED, MARCH 3, 1819.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That,

in all cases where provision has been made by law for five years' half pay to the widows and children of officers, seamen, and marines, who were killed in battle or died of wounds received in battle, or who died in the naval service of the United States, during the late war, the said provision shall be continued for the additional term of five years, to commence at the end of the first term of five years, in each case, respectively, making the provision equal to ten years' half pay; which shall be paid in the manner, and out of the fund, heretofore designated by law; and the said pensions shall also cease for the reasons mentioned in the said law.

[251.]

[*Laws of the U. S., vol. 7, page 213.*]

CHAP. 245. An act further extending the term of half pay pensions to the widows and children of officers, seamen, and marines, who died in the public service.

1. The term of half pay pensions to the widows of officers, &c., who died in the public service, extended for five years. 2. Act of 3d March, 1817, repealed: Nothing to prevent the payment of pensions already granted; nor to affect the rights of persons.

APPROVED, JANUARY 22, 1824.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in all cases where provision has been made by law for five years' half pay to the widows and children of officers, seamen, and marines who were killed in battle, or who died in the naval service of the United States, during the late war; and, also, in all cases where provision has been made for extending the term for five years, in addition to the first term of five years, the said provision shall be further extended for an additional term of five years, to commence at the end of the second term of five years, in each case, respectively, making the provision equal to fifteen years' half pay; which shall be paid out of the fund heretofore provided by law; and the said pensions shall cease, for the causes mentioned in the laws providing the same, respectively.

SEC. 2. *And be it further enacted,* That, from and after the passing of this act, the act entitled "An act to amend and explain an act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," passed March the third, one thousand eight hundred and seventeen, be, and the same is hereby, repealed: *Provided, however,* That nothing in this act contained shall be construed to prevent the payment of any pension already granted, until the full expiration of the period thereof; nor to affect or impair the rights of any person or persons which may have accrued during the existence of the act hereby repealed, as aforesaid.

[252.]

[*Laws of the U. S., vol. 7, page 321.*]

CHAP. 420. An act to revive and extend the term of certain pensions which have expired by limitation.

1, Pensions paid out of the privateer fund, and the terms for their payment, revived and extended.

APPROVED, MAY 26, 1824.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the pensions heretofore granted, and paid out of the privateer pension fund, to the widows and orphans of such officers, seamen, and marines, as were slain, or died in consequence of wounds or casualties received while in the line of their duty, on board the private armed ships of the United States, and the terms for the payment of which had expired by limitation, before the ninth day of April, in the year of our Lord one thousand eight hundred and twenty-four, be, and the same are hereby, revived and extended to such widows and orphans, with all the advantages, and in the same manner, as if their respective terms had not expired; subject to the provisions, restrictions, and limitations, of an act, passed the ninth day of April, in the year of our Lord one thousand eight hundred and twenty-four, entitled "An act extending the term of pensions granted to persons disabled, and to the widows and orphans of those who have been slain, or who have died in consequence of wounds or casualties received while in the line of their duty, on board the private armed ships of the United States, during the late war."*

[253.]

[*Laws of the U. S., vol. 8, page 72.*]

CHAP. 72. An act to provide for extending the term of certain pensions, chargeable on the navy and privateer pension fund.

1. Half pay to widows and orphans extended for another period of five years. 2. Pensions to widows of privateersmen continued for five years: Payable from privateer pension fund: During widowhood.

APPROVED, MAY 23, 1828.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where provision has been made by law for the five years' half pay to the widows and children of officers, seamen, and marines who were killed in battle, or who died in the naval service of the United States during the last war; and also in all cases where provision has been made for extending the term for five years in addition to any term of five years, the said provision shall be further extended for an additional term of five years, to commence at the end of the current or last expired term of five years*

in each case, respectively; making the provision equal to twenty years' half pay; which shall be paid out of the fund heretofore provided by law, and the said pensions shall cease for the causes mentioned in the laws providing the same, respectively.

SEC. 2. *And be it further enacted*, That the pensions of all widows, who now are, or who, at any time within one year last past, have been in the receipt thereof, under the provision of the following laws of the United States, or either of them, to wit: An act passed March the fourth, one thousand eight hundred and fourteen, entitled "An act giving pensions to the orphans and widows of the persons slain in the public or private armed vessels of the United States," and an act passed April the sixteenth, one thousand eight hundred and eighteen, entitled "An act in addition to an act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," so far as regards persons receiving pensions from the fund arising from captures and salvage, made by the private armed vessels of the United States, be and the same are hereby continued, under the restrictions and regulations in the said acts contained, for and during the additional term of five years, from and after the period of the expiration of the said pensions, respectively: *Provided, however*, That the said pensions shall be paid from the proceeds of the privateer pension fund alone, and without recourse to the United States, for any deficiency, should such occur, which may hereafter arise thereon: *And provided further*, That no such pension shall be paid to any such widow after her intermarriage had, or to be had, after she shall have become such widow.

[254.]

[*Laws of the U. S., vol. 8, page 274.*]

CHAP. 268. An act for the relief of Abigail Appleton.

APPROVED, MARCH 3, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Navy be, and hereby is, authorized and required to place the name of Abigail Appleton, the widow of Daniel Appleton, upon the pension list, and to allow to her a pension, to commence from the third day of September, one thousand eight hundred and twenty-nine, pursuant to the provisions of the act entitled "An act in addition to an act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," and the act to which the same is an addition, subject to the conditions and limitations therein contained.

[255.]

[*Laws of the U. S., vol. 8, page 274.*]

CHAP. 269. An act for the relief of Elizabeth Mays.

APPROVED, MARCH 25, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a pension of one hundred and fourteen dollars per annum, for the term of five years from the third day of September, one thousand eight hundred and twenty-nine, be allowed and paid, in half yearly payments, out of the navy pension fund, to Elizabeth Mays, the mother of Wilson Mays, late a carpenter's mate in the navy of the United States: Provided, however, That such pension shall be deemed to continue only during the life and widowhood of the said Elizabeth Mays.*

[256.]

[*Laws of the U. S., vol. 8, page 291.*]

CHAP. 306. An act for the relief of the widows and orphans of the officers, seamen, and marines, of the sloop of war Hornet.

1. Six months' pay allowed relatives of officers and men lost in the Hornet.

APPROVED, APRIL 24, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the widows, if any such there be, and, in case there be no widow, the child or children; and if there be no child, then the parent or parents; and if there be no parent, then the brothers and sisters of the officers, seamen, or marines, who were in service of the United States, and lost in the United States sloop of war Hornet, shall be entitled to, and receive out of any money in the treasury, not otherwise appropriated, a sum equal to six months' pay of their respective deceased relatives, aforesaid, in addition to the pay due to the said deceased, on the tenth day of September last, up to which day the arrears of pay due the deceased shall be allowed and paid by the accounting officers of the Navy Department.*

[257.]

[*Laws of the U. S., vol. 8, page 324.*]

CHAP. 340. An act for the relief of John Edgar, of Illinois.

APPROVED, MAY 26, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the*

proper accounting officer of the Treasury Department be, and he is hereby, authorized to pay to General John Edgar, heretofore an acting captain in the navy during the revolutionary war, the same sum, in gross, and the same pay during his life, which other captains have received,* in virtue of the provisions of the act of Congress, entitled "An act for the relief of certain surviving officers and soldiers of the army of the revolution," approved fifteenth May, one thousand eight hundred and twenty-eight.

[258.]

[*Laws of the U. S., vol. 8, page 330.*]

CHAP. 357. An act for the relief of Michael Lewis.

APPROVED, MAY 28, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay to Michael Lewis, or his legal representatives, out of any money in the treasury not otherwise appropriated, the sum of three hundred and eighty dollars, as a compensation in full for his services as pilot on board the United States' schooner Vixen, in the year one thousand eight hundred and thirteen, and subsequent detention as a prisoner of war.

[259.]

[*Laws of the U. S., vol. 8, page 503.*]

CHAP. 583. An act for the relief of Joseph S. Cannon.

APPROVED, MARCH 3, 1831.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy be, and he is hereby, authorized and required to place the name of Joseph S. Cannon on the navy pension list, at the rate of ten dollars per month, payable from the first day of January, eighteen hundred and twenty-nine.

[260.]

[*Laws of the U. S., vol. 8, page 631.*]

CHAP. 737. An act further to extend the pensions heretofore granted to the widows of persons killed, or who died in the naval service.

1. Pensions to widows of naval officers, &c. renewed for five years. 2. Widows of all who died of wounds provided for.

APPROVED, JUNE 23, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in

* It appears, by the principle of this act, that the act 15th May, 1828, was a provision for navy officers as well as army officers; which raises a question proper to be considered in another place.

all cases where provision has been made by law, for the five years' half pay to widows and children of officers, seamen, and marines, who were killed in battle, or who died in the naval service of the United States; and, also, in all cases where provision has been made for extending the term for five years, in addition to any term of five years, the said provision shall be, and is hereby, further extended for an additional term of five years, so far as respects widows only, to commence at the end of the current or last expired term of five years in each case, respectively; which pension shall be paid out of the fund heretofore provided by law. And the pension herein continued shall cease for the causes mentioned in the laws granting the same, respectively.

SEC. 2. *And be it further enacted*, That the provisions of this act shall be extended to the widows of all those who may have died by reason of wounds received during the war.

[261.]

[*Laws of the U. S., vol. 8, page 665.*]

CHAP. 780. An act for the regulation of the Navy and Privateer Pension and Navy Hospital Fund.

1. Commissioners of navy pension fund, hospital fund, and privateer pension fund abolished: Secretary of Navy constituted trustee, and to discharge all duties. 2. Funds to be invested in United States Bank stock now held by the United States. 3. Accounts of the several funds, how to be kept: Reports to be made to Congress. 4. Clerk to be appointed; his salary. 5. Secretary of the Navy to possess all the powers of the commissioners.

APPROVED, JULY 10, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the commissioners of the navy pension and navy hospital funds be, and they are hereby, directed to close all their accounts as trustees of said funds, and to pay over the balance of cash in their hands, and to assign over and transfer all the certificates of stocks and other property belonging to said funds, and to the privateer pension fund, to the Treasurer of the United States, for the use of the Secretary of the Navy, for the payment of navy and privateer pensions, and for expenditures on account of navy hospitals, et cetera; and as soon as said assignment and transfer shall be made, the said commissioners shall be, and they are hereby, released and discharged from all further trust connected with said funds, and the Secretary of the Navy be, and he is hereby, constituted the trustee of said funds; and, as such, it shall be his duty to receive applications for pensions, and to grant the same according to the terms of the acts of Congress in such case made and provided, and to direct and control the expenditures out of the navy hospital fund.

SEC. 2. *And be it further enacted*, That the balance of cash now on hand, and all moneys that may hereafter arise to said

pension funds from stock redeemed, or from any other source, shall be immediately invested, under the direction of the Secretary of the Navy, in the bank stock of the Bank of the United States; and that the Secretary of the Treasury be, and hereby is, authorized to sell so much of the stock of the United States in said bank, at the par value thereof, as said navy pension funds will pay for; and to receive said navy pension funds in payment thereof; the said bank stock to be held in the name of the Treasurer of the United States for the purposes aforesaid.

SEC. 3. *And be it further enacted*, That the Secretary of the Navy be, and he is hereby, authorized and required to cause the books to be opened, and regular accounts to be kept, showing the condition of the navy and privateer pension funds, the receipts and expenditures thereof, the names of the pensioners, and the dates and amount of their respective pensions, with a statement of the act or acts of Congress under which the same may be granted; and that he shall annually report to Congress an abstract, showing the condition of these funds in all these particulars, and the receipts and expenditures during the year; and cause a similar account of the receipts and expenditures of the navy hospital fund to be kept and reported to Congress, annually, in like manner, and at the same time, with the reports upon the pension funds.

SEC. 4. *And be it further enacted*, That the Secretary of the Navy shall be, and he is hereby, authorized to appoint a clerk who shall perform all the duties which shall be required of him in relation to said funds; and shall receive as a full compensation for his services, and in lieu of all commissions or other allowances, a salary of one thousand six hundred dollars, to be paid quarter yearly, out of the treasury of the United States.

SEC. 5. *And be it further enacted*, That all the powers conferred, and duties imposed by laws now in force, on the commissioners of the navy and privateer pension and navy hospital funds be, and they are hereby, transferred to the Secretary of the Navy; and all acts, and parts of acts, contrary to the provisions of this act, be, and they are hereby, repealed.

[262.]

[*Laws of the U. S., vol. 8, page 661.*]

CHAP. 773. An act to provide for paying certain arrearages for surveys made by naval officers, and for other purposes.

3. Commander of navy yard at Washington to cease to act as navy agent: Permanent agent to be appointed; his duty.

APPROVED, JULY 10, 1832.

SEC. 3. *And be it further enacted*, That, from and after the passage of this act, the commander of the navy yard at the city of

Washington shall cease to act as navy agent; and that portion of the act of the twenty-seventh of March, one thousand eight hundred and four, which made it his duty so to do, shall be, and the same is hereby, repealed, and a separate and permanent agent shall be appointed as in other cases, in the same manner, entitled to the same compensation, and under the same responsibilities, and to be governed by the same laws and regulations which now are, or may hereafter be, adopted for other navy agents; and it shall be his duty to act as agent not only for the navy yard in this city, but for the Navy Department, under the direction of the Secretary thereof, in the payment of such accounts and claims as the said Secretary may direct.

[263.]

[*Laws of the U. S., vol. 8, page 722.*]

CHAP. 851. An act for the relief of William Nelson, administrator of the estate of Andrew Nelson, deceased, and for other purposes.

1. Andrew Nelson's administrator paid prize money. 2. John Coleman's representatives paid prize money. 3. James Scrivener, seamen, paid transportation money.

APPROVED, JULY 14, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be paid to William Nelson, administrator of the estate of Andrew Nelson, deceased, out of any money in the treasury not otherwise appropriated, the sum of one hundred and twenty dollars and forty-two cents, being his proportion of prize money, as a seaman in the naval service of the United States, under the command of Commodore McDonough, for the British squadron captured on Lake Champlain during the late war; the same not having been heretofore paid under the "Act to authorize the purchase of the vessels captured on Lake Champlain," approved the third of March, one thousand eight hundred and fifteen.

SEC. 2. *And be it further enacted,* That the Secretary of the Navy pay to the legal representatives of John Coleman, deceased, the sum of one hundred and twenty dollars and forty-two cents, reported on the books of the Fourth Auditor of the treasury to the said John Coleman, for his share of prize money for the British vessels captured on Lake Erie during the late war, to be paid out of any money in the treasury not otherwise appropriated.

SEC. 3. *And be it further enacted,* That the proper accounting officers of the treasury be, and they are hereby, authorized and directed to pay to James Scrivener, late a seaman in the United States navy, or his legal representatives, out of any money not otherwise appropriated, the sum of thirty-seven dollars and fifty cents, in full of transportation money due him during the late war.

[264.]

[*Laws of the U. S., vol. 8, page 724.*]

CHAP. 856. An act for the relief of Thomas Holdup Stevens, and others.

APPROVED, JULY 14, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he is hereby, authorized to cause the sum of two thousand dollars to be distributed, as prize money, to Captain Thomas Holdup Stevens, of the United States navy, and the other captors of a piratical feluca within the Colorados Reef, in the West Indies, in April, eighteen hundred and twenty-three, which vessel was taken in the service of the United States; and that the said sum be, and the same is hereby, appropriated, for the purpose aforesaid, out of any moneys in the treasury not otherwise appropriated.

[265.]

[*Laws of the U. S., vol. 8, page 854.*]

CHAP. 1013. An act for the relief of the mother of Fitz Henry Babbit, late a lieutenant in the navy of the United States.

APPROVED, MARCH 2, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a pension of two hundred dollars per annum, for the term of five years, to commence on the twenty-ninth day of November, one thousand eight hundred and thirty, be allowed and paid semi-annually, out of the navy pension fund, to Mary J. Babbit, the mother of Fitz Henry Babbit, late a lieutenant in the navy of the United States: *Provided, however*, That in case of the death of Mary J. Babbit, before the expiration of said term of five years, the said pension shall cease from and after the time of such death.

[266.]

[*Laws of the U. S., vol. 8, page 856.*]

CHAP. 1020. An act for the relief of the widows and orphans of the officers and seamen who were lost in the United States schooner the Sylph.

1. Six months' pay granted to the relatives of officers and crew of the schooner Sylph.

APPROVED, MARCH 2, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the widows, if any such there be, and in case there be no widow, the child or children, and if there be no child, then the parent or

parents, and, if there be no parent, then the brothers and sisters of the officers and seamen who were in the service of the United States, and lost in the schooner Sylph, shall be entitled to, and receive out of any money in the treasury not otherwise appropriated, a sum equal to six months' pay of their respective deceased relatives aforesaid, in addition to the pay due to the said deceased on the fifteenth day of August, one thousand eight hundred and thirty-one, to which day the arrears of pay due the deceased shall be allowed and paid by the accounting officers of the Navy Department.

[267.]

[*Laws of the U. S., vol. 9, page 25.*]

CHAP. 39. An act for the relief of Thomas Ap C. Jones.

1. Arrears of pension allowed Captain Thomas Ap C. Jones, United States Navy.

APPROVED, MAY 10, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized and directed to allow and pay to Thomas Ap C. Jones, out of the navy pension fund, as arrears of pension to which he is entitled on account of a permanent disability occasioned by a wound received by him in battle with the enemy during the last war with Great Britain, the sum of twenty dollars per month, from the eighteenth day of July, one thousand eight hundred and fifteen, to the fifteenth day of November, one thousand eight hundred and thirty-one, deducting therefrom any sum accruing between these dates, which may have been paid him on account of the pension allowed him by the commissioners of the navy pension fund, on the thirty-first day of July, one thousand eight hundred and twenty-eight.*

[268.]

[*Laws of the U. S., vol. 9, page 37.*]

CHAP. 52. An act for the relief of the legal representatives of Joseph Rowe, deceased.

APPROVED, JUNE 18, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy pay to the legal representatives of Joseph Rowe, a boatswain's mate, deceased, the sum of one thousand four hundred and twenty-seven dollars and thirteen cents, for his share of prize money, arising from the capture of the British fleet on Lake Champlain, during the late war, and reported to be due to him on the books of the treasury; to be paid out of any money not otherwise appropriated.*

[269.]

[*Laws of the U. S., vol. 9, page 38.*]

CHAP. 55. An act further to extend the term of certain pensions chargeable on the privateer pension fund.

1. Privateer pensions continued for five years: Payable out of privateer fund only: To cease to widows who marry again.

APPROVED, JUNE 19, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the pensions of all widows who now are, or have been heretofore, in the receipt thereof, under the provisions of the act entitled "An act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," passed the fourth day of March, one thousand eight hundred and fourteen, and the act entitled "An act in addition to an act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," passed the sixteenth day of April, one thousand eight hundred and eighteen, or either of said acts, so far as regards persons receiving pensions from the fund arising from captures and salvage made by the private armed vessels of the United States, be, and the same are hereby continued, under the restrictions and regulations in the said acts contained, for and during the additional term of five years, from and after the period of the expiration of the said pensions, respectively: *Provided, however*, That the said pensions shall be paid from the proceeds of the privateer pension fund, and without recourse to the United States for any deficiency which may hereafter arise thereon, if any such there be: *And provided, further*, That no such pension shall be paid to any widow after her intermarriage, had or to be had.

[270.]

[*Laws of the U. S., vol. 9, page 80.*]

CHAP. 100. An act to enable the President to make an arrangement with the government of France in relation to certain French seamen killed or wounded at Toulon, and their families.

1. Pensions to be paid to certain French sailors, &c., who were accidentally wounded by United States frigate.

APPROVED, JUNE 28, 1834.

WHEREAS certain French seamen were unfortunately killed, and others wounded, by firing a salute from the American frigate United States, in the harbor of Toulon, on the first day of May last; and whereas it is proper to manifest the sensibility with which the disastrous accident is viewed by the government of the United States, therefore—

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, authorized and empowered to enter into an arrangement with the government of France for the payment of an annual sum of twice the amount receivable by the navy pensioners of the same or a similar class to the wounded who survive, and to such relatives of those who were unhappily killed as aforesaid, as the President may deem it expedient to include in this provision, which said sum shall be paid on the earliest day practicable after the proposed arrangement shall be concluded, and on the same day in each year thereafter during the respective lives of the persons to whom granted.

SEC. 2. *And be it further enacted,* That a sum of money sufficient to enable the President to carry the aforesaid arrangement into effect be, and the same is hereby, appropriated, to be paid out of any money in the treasury not otherwise appropriated.

[271.]

[*Laws of the U. S., vol. 9, page 107.*]

CHAP. 134. An act concerning naval pensions, and the navy pension fund.

1. Navy pensions to widows extended for five years. 2. Cost of stock of Bank of Columbia to be reimbursed, with interest.

APPROVED, JUNE 30, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all the provisions and benefits of the act of the twenty-eighth of June, one thousand eight hundred and thirty-two, entitled "An act further to extend the pension heretofore granted to the widows of persons killed, and who have died in the naval service," be continued for another term of five years to all those widows who have heretofore had the benefit of the same; and the same are hereby also extended to the widows of officers, seamen, and marines, who have died in the naval service since the first day of January, one thousand eight hundred and twenty-four, or who may die in said service by reason of disease contracted, or of casualties by drowning or otherwise, or of injuries received while in the line of their duty; and the pensions of such widows shall commence from the passage of this act: *Provided,* That every pension hereby granted shall cease on the death or marriage of such widow.

SEC. 2. *And be it further enacted,* That there be reimbursed to the navy pension fund, out of any money in the treasury not otherwise appropriated, the cost of the stock of the Bank of Columbia, heretofore purchased by the commissioners of the said fund, and which now remains unredeemed by the said bank, together with interest thereon from the period at which said bank

ceased to pay interest, to the time of the reimbursement herein directed to be made; and at the period of said reimbursement, the said stock shall be transferred by the Secretary of the Navy to the treasury of the United States.

[272.]

[*Laws of the U. S., vol. 9, page 149.*]

CHAP. 177. An act for the relief of Hannah Stone.

APPROVED JUNE 30, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy be, and he is hereby, directed to place Hannah Stone, widow of John Stone, late of Kennebunk, in the State of Maine, on the list of naval pensions, in conformity with the act of March four, one thousand eight hundred and fourteen, "giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States;" and that the said Hannah Stone be allowed and paid the same pension to which she would have been entitled, had the said John Stone been wounded or slain while serving in the line of his duty on board a private armed brig or vessel of the United States.

[273.]

[*Laws of the U. S., vol. 9, page 168.*]

CHAP. 226. An act for the relief of John A. Webster, and for the legal representatives of John Coleman, deceased.

APPROVED, JUNE 30, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy be, and he is hereby, authorized and required to place the name of John A. Webster, late a sailing master in the navy of the United States, on the navy pension list, at the rate of twenty dollars per month, payable from the first day of January, eighteen hundred and thirty-three.

SEC. 2. *And be it further enacted,* That the Secretary of the Navy pay to the legal representatives of John Coleman, deceased, the sum of one hundred and twenty dollars and forty-two cents, reported on the books of the Fourth Auditor of the Treasury to the said John Coleman, for his share of prize money for the British vessels captured on Lake Champlain, during the late war; to be paid out of any money not otherwise appropriated.

[274.]

[*Laws of the U. S., vol. 9, page 186.*]

CHAP. 273. An act authorizing a sum of money to be distributed among the officers and crew of the late private armed brig General Armstrong.

APPROVED, JUNE 30, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the sum of ten thousand dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated, as prize money, among the officers and crew of the late private armed brig General Armstrong, and the legal representatives of such as may be dead.

[275.]

[*Laws of the U. S., vol. 9, page 513.*]

CHAP. 688. An act for the relief of the owners, officers, and crews of the private armed vessels Neptune and Fox.

APPROVED, JULY 2, 1836.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be paid to the owners, officers, and crews of the private armed vessels Neptune and Fox, or their legal representatives, by the proper officers of the treasury, out of any money not otherwise appropriated, the sum of twenty-five dollars for each of sixty-nine prisoners captured by said Neptune and Fox on the St. Lawrence river, on the nineteenth day of July, eighteen hundred and thirteen, and delivered to the authorized agent of the United at Sackett's Harbor.

[276.]

[*Laws of the U. S., vol. 9, page 518.*]

CHAP. 700. An act for the relief of the legal representatives of Henry Richardson and Samuel Stout, and for the relief of Lieutenant John Rudd.

1. H. Richardson; wages and prize money to his heirs. 2. Lieutenant Rudd; prize money paid him: Samuel Stout; prize money paid his representatives.

APPROVED, JULY 2, 1836.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Navy be, and he is hereby, authorized to pay to the legal representatives of Henry Richardson, deceased, out of the navy pension fund, the sum of two hundred and thirty-three dollars and eighty cents, it being the amount due to the said representatives of Henry Richardson, deceased, a marine on board the United States sloop of war Wasp, under the act of Congress

of the sixth of April, eighteen hundred and sixteen, and passed to the navy pension fund in consequence of not being claimed.

SEC. 2. *And be it further enacted*, That the following sums of money heretofore appropriated and carried to the surplus fund be, and the same are hereby, directed to be paid out of any money in the treasury not otherwise appropriated, to wit :

To Lieutenant John Rudd, for his proportion of prize money in virtue of the act entitled "An act for the relief of Thomas Holdup Stevens, and others," approved the fourteenth July, eighteen hundred and thirty-two, forty dollars.

To the legal representatives of Samuel Stout, deceased, for his proportion of prize money, in virtue of the act entitled "An act providing for the distribution of one hundred thousand dollars among the captors of the Algerine vessels captured and restored to the Dey of Algiers," approved twenty-seventh April, eighteen hundred and sixteen, twenty dollars and eighty-five cents.

[277.]

[*Laws of the U. S., vol. 9, page 644.*]

CHAP. 805. An act for the more equitable administration of the navy pension fund.

1. Navy pensions to widows and orphans to commence at the death of the husband.
2. Pensions to officers and men to commence from disability. 3. Acts repealed.

APPROVED MARCH 3, 1837.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any officer, seaman, or marine, have died, or may hereafter die, in the naval service, leaving a widow, and, if no widow, a child or children, such widow, and if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased would have been entitled, under the acts regulating the pay of the navy, in force on the first day of January, one thousand eight hundred and thirty-five, to commence from the time of the death of such officer, seaman, or marine; but in case of the death or intermarriage of such widow, the half pay shall go to the child or children of deceased officer, seaman, or marine: *Provided*, That the half pay granted to the child or children shall cease on their death, or on their attaining the age of twenty-one years.

SEC. 2. *And be it further enacted*, That the pensions which may have been granted, or which may hereafter be granted, to officers, seaman, and marines, in the naval service, disabled by wounds or injuries received while in the line of their duty, shall be considered to commence from the time of their being so disabled; and that the amount of pension to which the said officers, seamen, and marines, may be entitled, shall be regulated according to the pay of the navy, as it existed on the first day of January, one thousand eight hundred and thirty-five.

SEC. 3. *And be it further enacted*, That all acts, and parts of acts, which may be inconsistent with the provisions of this act, be, and the same are hereby repealed, so far as they may relate hereto.

[278.]

[*Laws of the U. S., vol. 9, page 668.*]

CHAP. 814. An act for the relief of Abigail Appleton.

APPROVED, MARCH 3, 1837.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the pension heretofore granted, by law, to Abigail Appleton, the widow of Daniel Appleton, pursuant to the provisions of the act entitled "An act in addition to act an giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," and the act to which the same is an addition, subject to the conditions and limitations therein contained, be, and the same is hereby, renewed and continued for an additional term of five years, to commence from the third day of September, one thousand eight hundred and thirty-four, subject to the conditions and limitations aforesaid.

[279.]

[*Laws of the U. S., vol. 9, page 685.*]

CHAP. 837. An act authorizing the Secretary of the Navy to place the name of Doctor John P. Briggs on the navy pension list.

APPROVED, MARCH 3, 1837.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Navy be, and he hereby is, authorized and required to place upon the list of invalid pensioners of the navy pension fund, at the rate of twenty-five dollars per month, to be paid out of said fund, John P. Briggs, late an acting surgeon on of the ship *Saratoga*, who was wounded by a splinter in the action with the British fleet on Lake Champlain, on the eleventh of September, eighteen hundred and fourteen; to commence on the first of October, eighteen hundred and thirty-two.

[280.]

[*Laws of the U. S., vol. 9, page 689.*]

CHAP. 845. Resolution granting a pension to Susan Decatur, widow of the late Stephen Decatur.

APPROVED, MARCH 3, 1837.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Mrs. Susan

atur, widow of the late Commodore Stephen Decatur, be paid in the navy pension fund a pension for five years, commencing on the thirtieth June, eighteen hundred and thirty-four, in conformity with the provisions of the act concerning naval pensions the navy pension fund passed thirtieth June, eighteen hundred and thirty-four, and that she be allowed from said fund the arages of the half pay of a post captain, from the death of Commodore Decatur to the thirtieth of June, eighteen hundred and thirty-four, together with the pension hereby allowed her; that the arrearage of said pension be vested in the Secretary of the Treasury in trust for the use of said Susan Decatur: *Pro-
d*, That the said pension shall cease on the death or marriage of said Susan Decatur.

[281.]

[*Laws of the U. S., vol. 9, page 946.*]

CHAP. 1142. An act to remunerate the captors of the privateer Lydia.

APPROVED, FEBRUARY 6, 1839.

Sec. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to direct to pay, out of any money in the treasury not otherwise appropriated, to David Robinson, Ebenezer Robinson, James Robinson, and John Robinson, or to their or either of their heirs assigns, the sum of one thousand dollars, as a remuneration for the capture of the privateer Lydia, at Robinson's island, in the year eighteen hundred and thirteen.

[282.]

[*Laws of the U. S., vol 9, page 1043.*]

CHAP. 1247. An act for the relief of the widow of Thomas Kibbey.

APPROVED, MARCH 3, 1839.

Sec. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be allowed and paid to the widow of Thomas Kibbey, deceased, late a private in the marine corps, and who died by reason of a disability received in the line of his duty, the sum to which he would have been entitled as a full pensioner, from the first day of April, eighteen hundred and thirty-four, to the first day of April, eighteen hundred and thirty-seven, had he been on the pension list during that time.

[283.]

[*Laws of the U. S., vol. 9, page 1059.*]

CHAP. 1293. An act granting a pension to the widow of John March, deceased.

APPROVED, MARCH 3, 1839.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid out of the navy pension fund, to the widow of John March, deceased, an ordinary seaman of the United States ship Adams, who received an injury while in the line of his duty, a pension equal to half that to which he would have been entitled, provided the proof required by the regulations of the Navy Department had been produced; to commence on the twenty-second day of December, eighteen hundred and thirty-four, and to end on the day of his death.*

[284.]

[*Laws of the U. S., Pamphlet Edition for 1841.*]

CHAP. 8. An act to provide for the payment of navy pensions.

1. \$139,666 06 appropriated: Pensions under act 3d March, 1837, limited to close of next session of Congress: No widow or children of any naval officer, seaman, or marine, who may hereafter die, entitled. 2. No officer, seaman, or marine, shall receive pay at the same time both as a pensioner and an officer in service.

APPROVED, AUGUST 16, 1841.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of one hundred and thirty-nine thousand six hundred and sixty-six dollars and six cents is hereby appropriated, to be paid out of any money in the treasury not otherwise appropriated, for the payment of pensions and half pay chargeable on the navy pension fund: Provided, That all widows or children of all naval officers, seamen, or marines, now deceased, and entitled to receive or make proof of their pensions under the act of the third of March, eighteen hundred and thirty-seven, shall receive the same until the close of the next session of Congress; but no widow or children of any naval officer, seaman, or marine, who may hereafter die, shall be entitled to any pension by virtue only of any provision in the said act.*

SEC. 2. *And be it further enacted, That no officer, seaman, or marine, entitled to a pension from the navy pension fund, who receives pay from the public treasury, shall receive more from the said fund than is sufficient to make the whole amount received from both the above-named sources equal to the pay fixed by law for the grade to which the officer, seaman, or marine may belong as an officer in the services in which he may be engaged during the year, so that no officer shall receive pay at the same time both as a pensioner and an officer in service.*

[285.]

[*Laws of the U. S., Pamphlet Edition for 1842.*]

CHAP. 189. An act making an appropriation to supply a deficiency in the navy pension fund.

1. \$84,951 appropriated to supply the deficiency in the navy pension fund. 2. Act of March 3, 1837, repealed: Pensions to be regulated according to the pay of the navy on the 1st of January, 1835. 3. Act of April 6, 1838, partially repealed, and the time for unclaimed money to remain in the hands of agents extended to fourteen months.

APPROVED, AUGUST 23, 1842.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the sum of eighty-four thousand nine hundred and fifty-one dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated, to supply any deficiency which may exist in the navy pension fund, for the payment of the semi-annual navy pensions which will be due on the first day of July, eighteen hundred and forty-two.

SEC. 2. *And be it further enacted, That* the act entitled "An act to provide for the more equitable administration of the navy pension fund," approved March third, eighteen hundred and thirty-seven be, and the same is hereby, repealed, from and after the first day of July, eighteen hundred and forty-two. And all pensions to officers and seamen in the naval service shall be regulated according to the pay of the navy as it existed on the first day of January, one thousand eight hundred and thirty-five.

SEC. 3. *And be it further enacted, That* so much of the act entitled "An act directing the transfer of money remaining unclaimed by certain pensioners, and authorizing the payment of the same at the treasury of the United States," approved April sixth, eighteen hundred and thirty-eight, as requires pensions that may have remained unclaimed in the hands of pension agents for eight months to be returned to the treasury, be, and the same is hereby, repealed, and that the time within which such pensions shall be returned to the treasury be, and the same is hereby, extended to fourteen months; subject to all the other restrictions and provisions contained in the said act.

[286.]

[*Laws of the U. S., Pamphlet Edition for 1843.*]

CHAP. 76. An act making appropriations for the payment of navy pensions due on the first day of July, one thousand eight hundred and forty-three, and on the first day of January, one thousand eight hundred and forty-four.

1. Pay of invalids: Widows' pensions under act of June 30th, 1834: Claims of widows and orphans under act of March 3d, 1837.

APPROVED, MARCH 3, 1843.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the payment of the navy pensions which will become due on the first day of July one thousand eight hundred and forty-three, and on the first day of January, one thousand eight hundred and forty-four.

To pay the invalids now on the rolls, (and those who may be added during the first half year of one thousand eight hundred and forty-three,) on the said first day of July, twenty thousand dollars; and on the said first day of January, twenty thousand dollars.

To pay widows' pensions under act of June thirty, one thousand eight hundred and thirty-four, (including not only those who are now on the rolls, but those who may be added for the first half year of one thousand eight hundred and forty three,) on the said first day of July, three thousand dollars; and on the said first day of January, three thousand dollars.

To pay the claims of widows and orphans, under the act of March third, one thousand eight hundred and thirty-seven, on the said first day of July, eight thousand dollars; and on the said first day of January, eight thousand dollars.

[287.]

[*Laws of the U. S., Pamphlet Edition for 1844.*]

CHAP. 53. An act for the relief of the widows and orphans of the officers, seamen, and marines, of the United States schooner *Grampus*, and for other purposes.

1. Fixing time of pensions: March 20, 1843, to be considered the day the *Grampus* foundered, and May 1, 1839, as the day on which the *Sea Gull* was lost. 2. If there is no widow, but children under sixteen, they are to have the pension: In case of death or marriage of widow, pension to go to children: Pension to cease on the death of the children: J. S. Thacher's accounts to be settled, and to be credited with whatever may appear to be due by him.

APPROVED, JUNE 15, 1844.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That for the purpose of fixing the time at which shall commence the pensions, under the existing laws, of the widows of the officers, seamen, and marines, who were lost in the United States schooner *Grampus*, as well as the time to which the pay of said officers, seamen, and marines, shall be allowed, the twentieth day of March, one thousand eight hundred and forty-three, shall be deemed and taken to be the day on which the said schooner *Grampus* foundered at sea; and that, for the like purposes, the first day of May, one thousand eight hundred and thirty-nine, shall be deemed and taken to be the day on which the United States schooner *Sea Gull* was lost in like manner.

SEC. 2. *And be it further enacted*, That if any of the said officers, seamen, or marines, shall have left no widow, or having

left a widow, she shall have died before the passage of this act, and there shall be living at the date of the passage of this act a child or children of said officers, seamen, or marines, under sixteen years of age, such child or children shall be entitled to the same pension to which the widow, had there been one as aforesaid, would have been entitled, for the like period of five years; but in case of the death or intermarriage of the widow before the expiration of the said term of five years, the said pension for the remainder of the said term shall go to the child or children of the said deceased officer, seaman, or marine: *Provided*, That such pension shall cease upon the death of such child or children.

SEC. 3. *And be it further enacted*, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to settle the accounts of James S. Thatcher, late purser in the navy, who was lost in said schooner *Grampus*, with all his accounts and vouchers for expenditures and payments made by him, and with all the money, stores, and supplies, procured for the use of said vessel, and to allow him a credit for whatever sum appears to be due from him on the books of the department.

[288.]

[*Laws of the U. S., Pamphlet Edition for 1844.*]

CHAP. 58. An act making appropriations for the payment of navy pensions for the year ending thirtieth June, eighteen hundred and forty-five.

1. Invalid pensions, \$40,000: Widows' pensions, under act of June 30, 1834, \$6,000: Widows and orphans pensions, under act of March 3, 1837, \$16,000: Invalid pensions from the time they were stopped \$18,000: Widows and orphans of persons lost in the *Grampus* and *Sea Gull*, \$10,000.

APPROVED, JUNE 15, 1844.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the payment of navy pensions for the year ending the thirtieth June, eighteen hundred and forty-five:

To pay invalid pensions, forty thousand dollars.

To pay widows' pensions, under the act of thirtieth June, eighteen hundred and thirty-four, six thousand dollars.

To pay widows' and orphans' pensions, under the act of third March, eighteen hundred and thirty-seven, sixteen thousand dollars.

For payment of invalid pensioners, heretofore paid from the privateer pension fund, their several pensions to commence from the time they were stopped in consequence of the exhaustion of said fund, eighteen thousand dollars.

For payment of pensions to the widows and orphans of those persons who were lost in the United States schooner *Sea Gull*

and in the United States schooner Grampus, agreeably to the provisions of an act passed at the present session, entitled "An act for the relief of the widows and orphans of the officers, seamen, and marines, of the United States schooner Grampus, ten thousand dollars.

[289.]

[*Laws of the U. S., Pamphlet Edition for 1844.*]

CHAP. 161. An act for the relief of William McPherson.

APPROVED, JUNE 17, 1844.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be directed to place the name of William McPherson on the roll of invalid naval pensioners, and that there be paid to the said William McPherson a pension at the rate of eight dollars per month during his natural life, to commence on the first day of January, one thousand eight hundred and forty-three.*

[290.]

[*Laws of the U. S., Pamphlet Edition for 1845.*]

CHAP. 37. An act making appropriations for the payment of navy pensions for the year ending thirtieth June, eighteen hundred and forty-six.

APPROVED, MARCH 1, 1845.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the payment of navy pensions for the year ending the thirtieth June, eighteen hundred and forty-six:*

To pay invalid pensions, forty thousand dollars.

To pay the privateer pensions, three thousand dollars.

To pay widows' pensions, twelve thousand dollars.

To supply a deficiency in the appropriation for paying widows' pensions under the act of June thirtieth, eighteen hundred and thirty-four, for the year ending thirtieth June, eighteen hundred and forty-five, six thousand dollars.

[291.]

[*Laws of the U. S., Pamphlet Edition for 1845.*]

CHAP. 41. An act renewing certain naval pensions for the term of five years.

1. Pensions heretofore granted to widows continued: To cease on death or marriage.

APPROVED, MARCH 3, 1845.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

the pensions for the period of five years, which have been heretofore granted out of the naval pension fund, to the widows of officers, seamen, and marines, who have been killed or died by reason of a wound received in the line of their duty, or who have died by occasion of disease contracted, or of a casualty by drowning or otherwise, or of injury received while in the line of their duty, and which pensions have ceased in consequence of the expiration of the period for which they were originally granted, or for which they were subsequently renewed, shall be continued for another period of five years, to such of the said widows as have remained unmarried; to commence from the day on which such pensions, respectively, terminated; and to be paid out of any money in the treasury not otherwise appropriated: *Provided*, That every pension hereby renewed shall cease on the death or intermarriage of the widow to whom the same is hereby granted.

[292.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 101.*]

CHAP. 177. An act making appropriations for the payment of navy pensions for the year ending thirtieth June, one thousand eight hundred and forty-seven.

APPROVED, AUGUST 10, 1846.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the payment of navy pensions for the year ending the thirtieth June, one thousand eight hundred and forty-seven:

To pay invalid pensions, thirty-two thousand three hundred and thirty-five dollars and forty cents.

To pay the pensions of widows of officers, seamen, and marines, twelve thousand dollars.

[293.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 174.*]

CHAP. 49. An act making appropriations for the payment of navy pensions for the year ending thirtieth June, eighteen hundred and forty-eight.

1. Appropriation: Invalid pensions: Pensions of widows. 2. Act of 1845, renewing certain naval pensions for five years, continued: Privateer pension fund.

APPROVED, MARCH 3, 1847.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and the same are hereby, appropriated for

the payment of navy pensions for the year ending thirtieth June, eighteen hundred and forty-eight :

To pay invalid pensions, thirty-six thousand dollars.

To pay the pensions of widows of officers, seamen, and marines, sixteen thousand dollars.

SEC. 2. *And be it further enacted*, That the provisions of the act of eighteen hundred and forty-five, chapter forty-one, entitled "An act renewing certain naval pensions for the term of five years," be, and the same are hereby, extended to all pensions of similar kind which have expired since the passage of said act; and the pensions which were renewed by the said act for the term of five years, and which may expire before the next session of Congress, shall be, and hereby are, renewed and continued for another term of five years, to the persons entitled thereto, in the same manner, and subject to the same conditions as are in said act contained, and to commence from the time they may severally expire, and to be paid out of any money in the treasury not otherwise appropriated.

For the payment of pensions under the privateer pension fund, as pledged by the government by act of Congress of June twenty-sixth, eighteen hundred and twelve, three thousand dollars.

[294.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 282.*]

CHAP. 155. An act renewing certain naval pensions, and extending the benefits of existing laws, respecting naval pensions, to engineers, firemen, and coal-heavers in the navy, and to their widows.

1. Naval pensions of certain widows and orphans, renewed: Pensions to be paid so long as such widows continue as widows: In case of death or marriage of widows, pensions to be paid to their children until they arrive at sixteen years of age. 2. Pension laws extended to engineers, firemen, and coal-heavers, in the navy, and their widows and children: Rates of pension. 3. Amount of pension not to exceed the half pay of the deceased.

APPROVED, AUGUST 11, 1848.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all those widows and such child or children as are now receiving a pension under any of the laws of Congress passed prior to the first of August, eighteen hundred and forty-one, (excepting the law passed the third of March, eighteen hundred and thirty-seven,) and those widows and children who have received pensions at any time within five years prior to the passage of this act, may and shall continue to receive the same amount as they have received under any special act, from the time such special act expired: *Provided*, Such act ceased on or after the first day of September, eighteen hundred and forty-five, or may hereafter terminate. And all such pensions as are now in force, and such as are now renewed by this act, shall be paid out of any money in

the treasury not otherwise appropriated, so long as the said widows shall live as widows; and in case of the death, before or after the passage of this act, of the widows, to the orphan child or children of the deceased parties, until they respectively arrive at the age of sixteen years; and to the child or children of said widows in case of marriage by said widows, until said child or children shall respectively arrive at the age of sixteen years; and that the act approved thirtieth April, eighteen hundred and forty-four, shall not be so construed as to exclude officers, seamen, or marines from their pensions when disabled for sea service: *Provided*, That the whole amount received by the pensioner, including pay for his service and pension, shall not exceed his lowest duty pay. That the orphan child or children of the deceased parties shall have a pension in case the widow has died after drawing a five years' pension, to commence at the time when the widow dies, and to continue until the child or children shall respectively reach the age of sixteen years; and that any casualty by which an officer, seaman, or marine has lost or may lose his life while in the line of his duty, shall be considered sufficient to entitle the widow, child, or children to all the benefits of this act.

SEC. 2. *And be it further enacted*, That engineers, firemen, and coal-heavers in the navy shall be entitled to pensions in the same manner as officers, seamen, and marines; and the widows of engineers, coal-heavers, and firemen in the same manner as the widows of officers, seamen, and marines: *Provided*, That the pension of a chief engineer shall be the same as that of a lieutenant in the navy; and a pension of the widow of a chief engineer the same as that of the widow of a lieutenant in the navy; the pension of a first assistant engineer the same as that of a lieutenant of marines; and the pension of the widow of a first assistant engineer the same as that of the widow of a lieutenant of marines; the pension of a second or third assistant engineer the same as that of a forward officer; and the pension of the widow of a second or third assistant engineer the same as that of the widow of a forward officer; the pension of a fireman or coal-heaver the same as that of a seaman; the pension of the widow of a fireman or coal-heaver the same as that of the widow of a seaman: *And provided further*, That an engineer, fireman, or coal-heaver shall not be entitled to any pension by reason of a disability incurred prior to the thirty first of August, eighteen hundred and forty-two, nor shall the widow of an engineer, fireman, or coal-heaver be entitled to any pension by reason of the death of her husband, if his death was prior to the said date.

SEC. 3. *And be it further enacted*, That the amount of pension in every case arising under this law [is] not to exceed the half pay of the deceased officer, seaman, or marine, as it existed in January, eighteen hundred and thirty-five, or such rate of pension as is allowed by this act.

[295.]

*[Laws of the U. S., Statutes at Large, vol. 9, page 340.]***No. 24.** Joint Resolution concerning certain portions of the marine and ordnance corps.

1. The officers, non-commissioned officers, &c., of the marine corps, and artificers and laborers of the ordnance corps, who served in Mexico, placed, as to bounty land and other remuneration, on a footing with the regular army. 2. Non-commissioned officers of the marine corps to be entitled to bounty for re-enlistment.

APPROVED, AUGUST 10, 1848.

1. *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the officers, non-commissioned officers, privates, and musicians, of the marine corps, who have served with the army in the war with Mexico, and also the artificers and laborers of the ordnance corps serving in said war, be placed, in all respects as to bounty land and other remuneration, in addition to ordinary pay, on a footing with the officers, non-commissioned officers, privates, and musicians of the army: Provided, That this remuneration shall be in lieu of prize money and all other extra allowances.*

SEC. 2. *And be it further resolved, That the non-commissioned officers of the marine corps shall be entitled to the same bounty for re-enlistment as is now or may hereafter be received by the non-commissioned officers of the army.*

[296.]

*[Laws of the U. S., Statutes at Large, vol. 9, page 349.]***CHAP. 77.** An act making appropriations for the payment of navy pensions for the year ending the thirtieth June, one thousand eight hundred and fifty.

1. Invalid pensions, \$40,000: Widows and orphans, \$50,000: Invalids wounded on board private armed vessels, \$3,000.

APPROVED, MARCH 2, 1849.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the payment of navy pensions, for the year ending the thirtieth of June, one thousand eight hundred and fifty:*

To pay invalid pensions, forty thousand dollars.

To pay the pensions of widows and orphans of officers, seamen, and marines, fifty thousand dollars.

To pay the pensions of invalids who were wounded on board of private armed vessels during the last war with Great Britain, three thousand dollars.

[297.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 594.*]

CHAP. 23. An act making appropriations for the payment of navy pensions for the year ending the thirtieth of June, one thousand eight hundred and fifty-two.

APPROVED, MARCH 3, 1851.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the pay of navy pensions, for the year ending thirtieth June, one thousand eight hundred and fifty-two:

For invalid pensions, forty thousand dollars.

[298.]

[*Laws of the U. S., vol. 4, page 542.*]

CHAP. 535. An act to reward the officers and crew of the sloop-of-war *Hornet*; and Lieutenant Elliot and his officers and companions.

1. The President authorized to cause to be distributed \$25,000 as prize money to Capt. James Lawrence, his officers, and crew, of the *Hornet*, for the capture of the British brig *Peacock*: To Lieut. Elliot, his officers and companions, \$12,000 for the capture of the *Detroit*: \$37,000 appropriated.

APPROVED, JULY 13, 1813.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, authorized to have distributed, as prize money, to Captain James Lawrence, late of the sloop-of-war *Hornet*, his officers and crew, or their widows and children, the sum of twenty-five thousand dollars, for the capture and destruction of the British brig *Peacock*; and to Lieutenant Elliot, and his officers and companions, or their widows and children, the sum of twelve thousand dollars, for the capture and destruction of the British brig *Detroit*; and that the sum of thirty-seven thousand dollars be, and the same is hereby, appropriated to the purpose aforesaid, to be paid out of any money in the treasury not otherwise appropriated.*

* This act was omitted in the order of its date, nor is it otherwise material to insert it here, except as a further illustration of the settled policy of the government to reward naval as well as military daring, by special provisions, when the general provisions of the public acts do not meet the case. See further remarks on this subject in the Introduction.

1

BOUNTY LAND LAWS

OF THE

UNITED STATES.

[The following resolutions, from [1] to [5] stipulating grants of land to certain officers and soldiers of the continental army, were enacted during the revolutionary war, according to their respective dates.*]

[1.]

To provide for the raising of eighty-eight battalions to serve for the war.

RESOLUTION—IN CONGRESS, SEPTEMBER 16, 1776.

Resolved, That, in addition to a money bounty of twenty dollars to each non-commissioned officer and private soldier, Congress make provision for granting lands, in the following proportions, to the officers and soldiers who shall engage in the service, and continue therein to the close of the war, or until discharged by Congress, and to the representatives of such officers and soldiers as shall be slain by the enemy. Such lands to be provided by the United States, and whatever expense shall be necessary to procure such land, the said expense shall be paid and borne by the [United] States, in the same proportion as the other expenses of the war, viz: to a colonel, five hundred acres; to a lieutenant colonel, four hundred and fifty acres; to a major, four hundred acres; to a captain, three hundred acres; to a lieutenant, two hundred acres; to an ensign, one hundred and fifty acres; each non-commissioned officer and soldier, one hundred acres.

[2.]

RESOLUTION—IN CONGRESS, SEPTEMBER 18, 1776.

Resolved, That the bounty and grants of land offered by Congress, by a resolution of the 16th instant, as an encouragement to the officers and soldiers to engage to serve in the army of the United States during the war, shall extend to all who are, or shall

* These bounty land resolutions, Nos. [1,] [2,] [3,] [4,] [5,] &c., are derived from the Journals of Congress, in like manner as those relating to military and naval pensions on the first pages of this compilation. For a few remarks on the general policy of our bounty land system, particularly in relation to bounty lands tendered to Nova Scotia exiles, and other foreigners uniting in our revolutionary struggle, we must refer to the Introduction. We may remark here, however, that those laws being quite voluminous, and obsolete, are not embraced in this collection, but are properly referred to in the Introduction.

be, enlisted for that term; the bounty of ten dollars, which any of the soldiers have received from the continent on account of a former enlistment, to be reckoned in part payment of the twenty dollars offered by the said resolution: That no officer in the continental army be allowed to hold more than one commission, or to receive pay but in one capacity, at the same time.

[3.]

RESOLUTION—IN CONGRESS, AUGUST 12, 1780.

Resolved, That the provision for granting lands, by the resolution of September sixteenth, one thousand seven hundred and seventy-six, be, and is hereby, extended to the general officers, in the following proportion: to a major general, one thousand one hundred acres; to a brigadier general, eight hundred and fifty acres.

[4.]

RESOLUTION—IN CONGRESS, SEPTEMBER 22, 1780.

Congress resumed the consideration of the report of the committee on the Medical Department; and, on the consideration of the following, it was

Resolved, That the several officers of the Medical Department, except the clerks and stewards, shall, at the end of the war, be entitled to a certain provision of land, in the proportion following, to wit: The director to have the same quantity as a brigadier general; chief physicians and purveyor the same as a colonel; physicians and surgeons, and apothecary, the same as a lieutenant colonel; regimental surgeons and assistants to the purveyor and apothecary, the same as a major; hospital and regimental surgeons' mates, the same as a captain.

[5.]

RESOLUTION—IN CONGRESS, OCTOBER 3, 1780.

And whereas, by the foregoing arrangement,* many deserving officers must become supernumerary, and it is proper that regard be had to them:

Resolved, That from the time the reform of the army takes place, they be entitled to half pay for seven years, in specie or other current money equivalent, and also grants of land at the close of the war, agreeably to the resolution of the 16th of September, 1776.

* For reducing and regulating the army.

[6.]

[*Laws of the U. S., vol. 1, page 563.*]

CHAP. 32. An ordinance for ascertaining the mode of disposing of lands in the western territory.

Surveyors to be appointed, &c. * * * Army bounty lands to be drawn for : Secretary of War to transmit certificates : Regulations with respect to army bounty lands : Reservation of three townships for refugees : Reservation for the use of Christian Indians : Saving of the rights of officers and soldiers entitled to lands on the northwest side of the Ohio river.

IN CONGRESS, MAY 20, 1785.

Be it ordained by the United States in Congress assembled, That the territory ceded by individual States to the United States, which has been purchased of the Indian inhabitants, shall be disposed of in the following manner :

A surveyor from each State shall be appointed by Congress, or a committee of the States, who shall take an oath for the faithful discharge of his duty, before the geographer of the United States, who is hereby empowered and directed to administer the same ; and the like oath shall be administered to each chain carrier, by the surveyor under whom he acts. * * *

And whereas Congress, by their resolutions of September 16th and 18th, in the year 1776, and the 12th of August, 1780, stipulated grants of land to certain officers and soldiers of the late continental army, and by the resolution of the 22d September, 1780, stipulated grants of land to certain officers in the hospital department of the late continental army ; for complying, therefore, with such engagements, be it ordained, that the Secretary of War, from the returns in his office, or such other sufficient evidence as the nature of the case may admit, determine who are the objects of the above resolutions and engagements, and the quantity of land to which such persons or their representatives are, respectively, entitled, and cause the townships or fractional parts of townships, herein before reserved for the use of the late continental army, to be drawn for in such manner as he shall deem expedient, to answer the purpose of an impartial distribution. He shall, from time to time, transmit certificates to the commissioners of the loan offices of the different States, to the lines of which the military claimants have respectively belonged, specifying the name and rank of the party, the terms of his engagement and time of his service, and the division, brigade, regiment, or company, to which he belonged, the quantity of land he is entitled to, and the township or fractional part of a township and range out of which his portion is to be taken.

The commissioners of the loan offices shall execute deeds for such undivided proportions, in manner and form herein before mentioned, varying only in such a degree as to make the same conformable to the certificate from the Secretary of War.

Where any military claimants of bounty in lands shall not have belonged to the line of any particular State, similar certifi-

cates shall be sent to the board of treasury, who shall execute deeds to the parties for the same.

The Secretary of War, from the proper returns, shall transmit to the board of treasury a certificate, specifying the name and rank of the several claimants of the hospital department of the late continental army, together with the quantity of land each claimant is entitled to, and the township or fractional part of a township and range out of which his portion is to be taken; and thereupon the board of treasury shall proceed to execute deeds to such claimants.

The board of treasury, and the commissioners of the loan offices in the States, shall, within eighteen months, return receipts to the Secretary of War, for all deeds which have been delivered, as also all the original deeds which remain in their hands for want of applicants, having been first recorded; which deeds, so returned, shall be preserved in the office, until the parties or their representatives require the same.

And be it further ordained, That three townships adjacent to Lake Erie be reserved, to be hereafter disposed of by Congress, for the use of the officers, men, and others, refugees from Canada, and the refugees from Nova Scotia, who are or may be entitled to grants of land under resolutions of Congress now existing, or which may hereafter be made respecting them, and for such other purposes as Congress may hereafter direct.

And be it further ordained, That the towns of Gnadenbutten, Schoenbrun, and Salem, on the Muskingum, and so much of the lands adjoining to the said towns, with the buildings and improvements thereon, shall be reserved for the sole use of the christain Indians who were formerly settled there, or the remains of that society, as may, in the judgment of the geographer, be sufficient for them to cultivate.

Saving and reserving always, to all officers and soldiers entitled to lands on the northwest side of the Ohio, by donation or bounty from the commonwealth of Virginia, and to all persons claiming under them, all rights to which they are so entitled under the deed of cession executed by the delegates for the State of Virginia, on the 1st day of March, 1784, and the act of Congress accepting the same; and to the end that the said rights may be fully and effectually secured, according to the true intent and meaning of the said deed of cession and act aforesaid, be it ordained, that no part of the land included between the rivers called Little Miami, and Scioto, on the northwest side of the river Ohio, be sold, or in any manner alienated, until there shall first have been laid off and appropriated for the said officers and soldiers, and persons claiming under them, the lands they are entitled to, agreeably to the said deed of cession and act of Congress accepting the same.

Done by the United States in Congress assembled, the twentieth day of May, in the year of our Lord one thou-

sand seven hundred and eighty-five, and of our sovereignty and independence the ninth.

RICHARD H. LEE, *President.*

CHARLES THOMSON, *Secretary.*

[7.]

RESOLUTION—IN CONGRESS, OCTOBER 22, 1787.

On the report of a committee, consisting of Mr. Carrington, Mr. King, Mr. Dane, Mr. Madison, and Mr. Cook, to whom was referred a letter of the Secretary of War, of the 26th of April last :

**Resolved*, That a million of acres of land, to be bounded east by the seventh range of townships, south by the land contracted for by Cutler and Sargent, and to extend north as far as the ranges of townships, and westward so far as to include the above quantity ; also, a tract to be bounded as follows, beginning at the mouth of the river Ohio, thence up the Mississippi to the river Au Vause, thence up the same until it meets a west line from the mouth of the Little Wabash, thence easterly with the said west line to the Great Wabash, thence down the same to the Ohio, and thence with the Ohio to the place of beginning, be reserved and set apart for the purpose of satisfying the military bounties due to the late army ; and that no locations, other than for the said bounties, be permitted within the said tract, until they shall be fully satisfied.

That the Secretary of War take measures for ascertaining the existing claims for such bounties, and that the geographer proceed to have the same surveyed under the direction of the Secretary of War, agreeably to the terms upon which they have been promised.

[8.]

[*Laws of the U. S., vol. 4, page 34.*]

CHAP. 26. An act to authorize the Secretary of War to issue land warrants ; and for other purposes.

1. The Secretary of War authorized to issue military land warrants: The warrants may be located in the names of the holders at any time prior to the 1st of October, 1808, on any of the fifty quarter townships reserved. 2. The surveyor general to cause so much of the fifty quarter townships to be surveyed as may be located according to law : The whole expense of surveying not to exceed three dollars for every mile.

APPROVED, APRIL 15, 1806.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be authorized to issue military land warrants to such persons as have or shall, before the first day of March, one thousand eight hundred and eight, produce to him satisfactory evidence of the validity of their claims ; which warrants, with

* This resolution was not carried into effect.

those heretofore issued, and not yet satisfied, shall and may be located in the names of the holders or proprietors thereof, at any time prior to the first day of October, one thousand eight hundred and eight, on any unlocated parts of the fifty quarter townships and the fractional quarter townships reserved by law for original holders of military land warrants.

SEC. 2. *And be it further enacted*, That it shall be the duty of the surveyor general, under the direction of the Secretary of the Treasury, to cause to be surveyed so much of the fifty quarter townships and the fractional quarter townships aforesaid, as have been, or hereafter may be, located according to law, in conformity with the locations made on the plats of the said quarter townships: *Provided*, The whole expense of surveying the same shall not exceed three dollars for every mile actually surveyed.

[9.]

[*Laws of the U. S., vol. 4, page 155.*]

CHAP. 141. An act extending the time for issuing and locating military land warrants.

1. The Secretary of War authorized to issue military land warrants to persons who have before the 1st of March, 1810, produced satisfactory evidence of their claims: The warrants may be located in the names of the holders prior to 1st of October, 1810.

APPROVED, MARCH 21, 1808.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be authorized to issue military land warrants to such persons as have, or shall, before the first day of March, one thousand eight hundred and ten, produce to him satisfactory evidence of the validity of their claims; which warrants, with those heretofore issued and not yet satisfied, shall and may be located in the names of the holders or proprietors thereof, prior to the first day of October, one thousand eight hundred and ten, on any unlocated parts of the fifty quarter townships and the fractional quarter townships reserved by law for original holders of military land warrants.

[10.]

[*Laws of the U. S., vol. 4, page 243.*]

CHAP. 228. An act extending the time for issuing and locating military land warrants.

1. The Secretary of War authorized to issue military land warrants to such persons as, before the 1st of March, 1813, produce satisfactory evidence of the validity of their claims: The warrants may be located in the names of the holders or proprietors, prior to the 1st of October, 1813, on any unlocated parts of the fifty quarter townships.

APPROVED, DECEMBER 19, 1809.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

the Secretary of War be authorized to issue military land warrants to such persons as have or shall, before the first day of March, one thousand eight hundred and thirteen, produce to him satisfactory evidence of the validity of their claims; which warrants, with those heretofore issued and not yet satisfied, shall and may be located in the names of the holders or proprietors thereof, prior to the first day of October, one thousand eight hundred and thirteen, on any unlocated parts of the fifty quarter townships and the fractional quarter townships reserved by law for original holders of military land warrants.

[11.]

[*Laws of the U. S., vol. 4, page 365.*]

CHAP. 333. An act for completing the existing military establishment.

1. The military establishment to be immediately completed. 2. Sixteen dollars bounty to each effective, able-bodied man recruited or re-enlisted: Non-commissioned officers and soldiers discharged from service, and who have obtained from the commanding officer a certificate that they had faithfully performed duty, are to be allowed three months' pay in addition, and one hundred and sixty acres of land; which, in case they are killed or die in the service, are to go to their heirs: To be designated, surveyed, &c., at the public expense.

APPROVED, DECEMBER 24, 1811.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the military establishment, as now authorized by law, be immediately completed.

SEC. 2. *And be it further enacted,* That there be allowed and paid to each effective, able-bodied man, recruited or re-enlisted for that service, for the term of five years, unless sooner discharged, the sum of sixteen dollars; but the payment of one-half of the said bounty shall be deferred until he shall be mustered and have joined the corps in which he is to serve; and whenever any non-commissioned officer or soldier shall be discharged from the service, who shall have obtained from the commanding officer of his company, battalion, or regiment, a certificate that he had faithfully performed his duty whilst in service, he shall, moreover, be allowed and paid, in addition to the afore-said bounty, three months' pay, and one hundred and sixty acres of land; and the heirs and representatives of those non-commissioned officers or soldiers, who may be killed in action, or die in the service of the United States, shall, likewise, be paid and allowed the said additional bounty of three months' pay, and one hundred and sixty acres of land, to be designated, surveyed, and laid off, at the public expense, in such manner, and upon such terms and conditions as may be provided by law.

[12.]

[*Laws of the U. S., vol. 4, page 367.*]

CHAP. 337. An act to raise an additional military force.

1. Ten regiments of infantry, two of artillery, and one of light dragoons, to be immediately raised for five years. * * * 12. Sixteen dollars bounty to each recruit; the payment of eight dollars of the bounty deferred: When any non-commissioned officer or soldier is discharged, and has obtained a certificate from the commanding officer that he had performed his duty, he is to be allowed, in addition, three months' pay and one hundred and sixty acres of land; and, in case of his being killed or dying, the heirs and representatives are to receive the additional bounty; to be designated, surveyed, &c., at the public expense.

APPROVED, JANUARY 10, 1812.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there be immediately raised ten regiments of infantry, two regiments of artillery, and one regiment of light dragoons, to be enlisted for the term of five years, unless sooner discharged. * *

SEC. 12. *And be it further enacted,* That there shall be allowed and paid to each effective able-bodied man, recruited as aforesaid, to serve for the term of five years, a bounty of sixteen dollars; but the payment of eight dollars of the said bounty shall be deferred until he shall be mustered, and have joined some military corps of the United States for service. And whenever any non-commissioned officer, or soldier, shall be discharged from the service, who shall have obtained from the commanding officer of his company, battalion, or regiment, a certificate that he had faithfully performed his duty whilst in service, he shall, moreover, be allowed and paid, in addition to the said bounty, three months' pay, and one hundred and sixty acres of land; and the heirs and representatives of those non-commissioned officers or soldiers who may be killed in action, or die in the service of the United States, shall likewise be paid and allowed the said additional bounty of three months' pay, and one hundred and sixty acres of land; to be designated, surveyed, and laid off, at the public expense, in such manner, and upon such terms and conditions, as may be provided by law.*

[13.]

[*Laws of the U. S., vol. 4, page 425.*]

CHAP. 400. An act to provide for designating, surveying, and granting, the military bounty lands.

1. The President to cause to be surveyed not exceeding six millions of acres of public land: Two million in each of the Territories of Michigan, Illinois, and Louisiana, (Missouri:) The lands to be divided into townships, and subdivided: The lands surveyed, with the exception mentioned, to be set apart for satisfying the bounties of one hundred and sixty acres promised to non-commissioned officers and soldiers by the acts mentioned.

2. The Secretary of War to issue warrants for the military land bounties: The warrants

* For the pension sections 14 and 15 of this act, see No. [44.] ante.

to be issued in the names of the persons entitled, to be applied for within five years, and not assignable: Persons in whose favor warrants have issued, on delivering them at the General Land Office, to be entitled to draw by lot one of the quarter sections in either of the Territories, and a patent to be granted without fee. 4. No claim for military land bounties assignable until after a patent: All sales, mortgages, contracts, &c., made prior to granting a patent, with intent to alienate any claim to military land bounties, declared null and void.

APPROVED, MAY 6, 1812.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States be, and he is hereby, authorized to cause to be surveyed a quantity of the public lands of the United States, fit for cultivation, not otherwise appropriated, and to which the Indian title is extinguished, not exceeding, in the whole, six millions of acres; two millions to be surveyed in the territory of Michigan, two millions in the Illinois territory, north of the Illinois river, and two millions in the territory of Louisiana, between the river St. Francis and the river Arkansas; the said lands to be divided into townships, and subdivided into sections and quarter sections, (each quarter section to contain, as near as possible, one hundred and sixty acres,) in the manner prescribed by law for surveying and subdividing the other public lands of the United States, the same price to be allowed for surveying as is fixed for surveying the other public lands in the same territory. And the lands thus surveyed, with the exception of the salt springs and lead mines therein, and of the quantities of land adjacent thereto as may be reserved for the use of the same by the President of the United States, and the section number sixteen in every township, to be granted to the inhabitants of such township for the use of public schools, shall be set apart and reserved for the purpose of satisfying the bounties of one hundred and sixty acres, promised to the non-commissioned officers and soldiers of the United States, their heirs and legal representatives, by the act entitled "An act for completing the existing military establishment," approved the twenty-fourth day of December, one thousand eight hundred and eleven, and by the act entitled "An act to raise an additional military force," approved the eleventh day of January, one thousand eight hundred and twelve.

SEC. 2. *And be it further enacted,* That the Secretary for the Department of War, for the time being, shall, from time to time, issue warrants for the military land bounties to the persons entitled thereto by the two last mentioned acts, or either of them: *Provided always,* That such warrants shall be issued only in the names of the persons thus entitled, and be, by them or their representatives, applied for within five years after the same persons shall have become entitled thereto; and the said warrants shall not be assignable or transferrable in any manner whatever.

SEC. 3. *And be it further enacted,* That every person in whose favor such warrants shall have been issued, shall, on delivery the same at the office of the Secretary of the Treasury, or o

other officer as may at the time have, by law, the superintendence of the General Land Office of the United States at the seat of government, be entitled to draw, by lot, in such manner as the officer at the head of the Land Office, under the direction of the President of the United States, may prescribe, one of the quarter sections surveyed by virtue of the first section of this act, in either of the said territories which the person in whose favor such warrant has issued may designate. And a patent shall thereupon be granted to such person, for such quarter section, without requiring any fee therefor.

SEC. 4. *And be it further enacted*, That no claim for the military land bounties aforesaid shall be assignable or transferrable in any manner whatever, until after a patent shall have been granted in the manner aforesaid. All sales, mortgages, contracts, or agreements, of any nature whatever, made prior thereto, for the purpose or with intent of alienating, pledging, or mortgaging any such claim, are hereby declared and shall be held null and void; nor shall any tract of land, granted as aforesaid, be liable to be taken in execution or sold on account of any such sale, mortgage, contract, or agreement, or on account of any debt contracted prior to the date of the patent, either by the person originally entitled to the land, or by his heirs or legal representatives, or by virtue of any process, or suit at law, or judgment of court, against a person entitled to receive his patent as aforesaid.

[14.]

[*Laws of the U. S., vol. 4, page 57.*]

CHAP. 477. An act supplementary to the act entitled "An act for the more perfect organization of the army of the United States."

1. The President authorized to appoint one additional major to the first regiment of light dragoons. * * * 4. Twenty-four dollars to be advanced to each able bodied man enlisted after the 1st of February, 1813: Bounty of one hundred and sixty acres of land.

APPROVED, JANUARY 20, 1813.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint one additional major to the first regiment of light dragoons, the regiment of light artillery, each regiment of infantry, and the rifle regiment, in the army of the United States, who shall receive the like pay, rations, forage, and other emoluments, as officers of the same grade and corps of the present military establishment. * *

SEC. 4. *And be it further enacted*, That, in order to complete the present military establishment to the full number authorized by law, with the greatest possible dispatch, there shall be paid to each effective able-bodied man, who shall be duly enlisted into

the service of the United States, after the first day of February next, to serve for the term of five years, or during the war, an advance of twenty-four dollars, on account of his pay, in addition to the existing bounty, one-half of such advance to be paid at the enlistment of the recruit, and the other half when he shall be mustered and have joined some military corps of the United States, for service; and a bounty of one hundred and sixty acres of land, as heretofore established by law.

[15.]

[*Laws of the U. S., vol. 4, page 542.*]

CHAP. 535. An act further extending the time for issuing and locating military land warrants.

1. The Secretary of War authorized to issue military land warrants to persons who, before the 1st of March, 1816, produce evidence of the validity of their claims: The warrants may be located in the name of the holders prior to the 1st October, 1816: Patents to be granted as directed by former acts.

APPROVED, JULY 5, 1813.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be authorized to issue military land warrants to such persons as have or shall, before the first day of March, one thousand eight hundred and sixteen, produce to him satisfactory evidence of the validity of their claims; which warrants, with those heretofore issued and not yet satisfied, shall and may be located, in the name of the holders or proprietors thereof, prior to the first day of October, one thousand eight hundred and sixteen, on any unlocated parts of the fifty quarter townships and the fractional quarter townships reserved by law for original holders of military land warrants. And patents shall be granted for the land located under this act in the same manner as is directed by former acts for granting military lands.

[16.]

[*Laws of the U. S., vol. 6, page 59.*]

CHAP. 49. An act further extending the time for issuing and locating military land warrants, and for other purposes.

1. The Secretary of War to issue military land warrants to persons who have, before the first of March, 1818, produced satisfactory evidence: The warrants may be located prior to the 1st of October, 1818, on unlocated parts of the fifty quarter townships reserved: Patents to be granted as directed by former acts. 2. At the expiration of the term limited, the Commissioner of the General Land Office is to transmit to the Surveyor General a list of all the lots remaining unlocated; the Surveyor General is to transmit to the registers at Chillicothe and Zanesville general plats of the lots which are to be offered for sale.

APPROVED, APRIL 16, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the

Secretary of War be authorized to issue military land warrants to such persons as have or shall, before the first day of March, one thousand eight hundred and eighteen, produced to him satisfactory evidence of the validity of their claims; which warrants, with those heretofore issued, are not yet satisfied, shall and may be located, in the name of the holders or proprietors thereof, prior to the first day of October, one thousand eight hundred and eighteen, on any unlocated parts of the fifty quarter townships and the fractional quarter townships reserved by law for original holders of military land warrants. And patents shall be granted, for the land located under this act, in the same manner as is directed by former acts for granting military lands.

SEC. 2. *And be it further enacted*, That, at the expiration of the term limited by this act, for the location of the military land warrants aforesaid, it shall be the duty of the Commissioner of the General Land Office to transmit to the Surveyor General a list of all the lots of land within the fifty quarter townships and fractional quarter townships which shall at that time remain unlocated; and the Surveyor General shall prepare and transmit to the registers of the land office at Chillicothe and Zanesville, respectively, general plats of the aforesaid unlocated lots; which lots shall, after the first day of March, one thousand eight hundred and nineteen, be offered for sale at the land offices in the districts in which they are situated, in the same manner, on the same terms and conditions, in every respect, as other public lands are offered at private sale, in the same districts.

[17.]

[*Laws of the U. S., vol. 6, page 63.*]

CHAP. 55. An act making further provisions for military services during the late war, and for other purposes.

3. Soldiers who enlisted to serve for five years or during the war, having faithfully served and been regularly discharged, or been promoted, entitled to 160 or 320 acres, according to the term of enlistment: Warrants and patents to issue. 4. The President to cause two millions of acres additional to be surveyed and laid off for the purposes of this act. 5. No transfer of bounty land valid until after the issue and delivery of the patents to the persons entitled.

APPROVED, APRIL 16, 1816.

SEC. 3. *And be it further enacted*, That all soldiers who have been enlisted to serve for five years or during the war, and were above the age of forty-five, or under the age of eighteen years, who have faithfully served during the late war, and have been regularly discharged, and the representatives of such soldiers as shall have died whilst in the service of the United States, and all soldiers who have been enlisted and have faithfully served during the late war, until they have been promoted to the rank of commissioned officers, who, if they had served during the war under

their enlistment, and been regularly discharged, would have been entitled to a bounty in land, shall be entitled to one hundred and sixty or three hundred and twenty acres of land, according to the term of enlistment; the warrants and patents to issue in the same manner as in the case of soldiers enlisted of proper age, and discharged under similar circumstances.

SEC. 4. *And be it further enacted*, That, for the purpose of carrying the provisions of this act into effect, and other acts giving bounty lands to soldiers of the regular army, the President of the United States is hereby authorized to cause to be surveyed and laid off in one or more surveys, two millions of acres, not otherwise appropriated, in addition to the appropriations of lands by the act of May the sixth, one thousand eight hundred and twelve, for designating, surveying, and granting military bounty lands according to the provisions of said act.

SEC. 5. *And be it further enacted*, That no transfer of land granted in virtue of this or any other law, giving bounties of land to the non-commissioned officers, musicians, and privates enlisted during the late war, shall be valid, unless the contract or agreement therefor, or letters of attorney, giving power to sell or convey, shall have been executed after the patents shall be issued and delivered to the persons entitled thereto.

[18.]

[*Laws of the U. S., vol. 6, page 119.*]

CHAP. 127. An act providing for cases of lost military land warrants and discharges for faithful services.

1. Soldiers of the regular army having obtained warrants and lost them, upon satisfactory proof of the fact to the Secretary of War, are entitled to patents. 2. When it appears, to the satisfaction of the Secretary of War, that certificates of faithful services, in cases of discharge from military service, have been omitted by neglect, misconstruction, or casualty, the omission is not to prevent the issuing of warrants and patents: Upon proof of the loss of a discharge and certificate, the Secretary of War is to furnish papers, if the measures be justified by the time of enlistment.

APPROVED, APRIL 27, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That when any soldier of the regular army, having obtained a military land warrant, shall have lost, or shall hereafter lose, the same, or the said warrant shall have been or may be, by accident, destroyed, every such soldier shall, upon proof thereof, to the satisfaction of the Secretary of War, be entitled to a patent, in like manner as if the said warrant was produced.

SEC. 2. *And be it further enacted*, That in all cases of discharges from the military service of the United States, of any soldier of the regular army, when it shall appear to the satisfaction of the Secretary of War that a certificate of faithful services

has been omitted by the neglect of the discharging officer, by misconstruction of the law, or by any other neglect or casualty, such omission shall not prevent the issuing of the warrant and patent as in other cases. And when it shall be proved as aforesaid that any soldier of the regular army has lost his discharge and certificate of faithful service, the Secretary of War shall cause such papers to be furnished such soldier of the regular army as will entitle him to his land warrant and patent: *Provided*, Such measure be justified by the time of his enlistment, the period of service, and the report of some officer of the corps to which he was attached.

[19.]

[*Laws of the U. S., vol. 6, page 261.*]

CHAP. 302. An act supplementary to the act entitled "An act further extending the time for issuing and locating military land warrants, and for other purposes."

1. Time for issuing military land warrants extended to 1st of March, 1819: Time for locating unlocated warrants extended to 1st of October, 1819.

APPROVED, MARCH 9, 1818.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the time limited by the act passed on the sixteenth day of April, one thousand eight hundred and sixteen, and to which this is a supplement, for issuing military land warrants, shall be extended to the first day of March, one thousand eight hundred and nineteen; and the time limited by the said act for the location of unlocated military land warrants shall be extended to the first day of October, one thousand eight hundred and nineteen.

[20.]

[*Laws of the U. S., vol. 6, page 377.*]

CHAP. 452. An act allowing further time to complete the issuing and locating of military land warrants.

1. The authority granted to the Secretary of War by the acts of 6th May, 1812, and 10th December, 1814, to issue military bounty land warrants, continued until 4th March, 1824. 2. The time limited for issuing and locating military land warrants by act of 9th March, 1818, extended to 4th March and 1st October, 1821.

APPROVED, FEBRUARY 24, 1819.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the authority granted to the Secretary for the Department of War, by the second section of the act to provide for designating, surveying, and granting, the military bounty lands, approved the

sixth day of May, one thousand eight hundred and twelve, and by the fourth section of the act making further provision for filling the ranks of the army of the United States, approved December tenth, one thousand eight hundred and fourteen, to issue warrants for the military land bounties to persons entitled thereto, shall be revived and continued in force for the term of five years, from and after the fourth day of March next.

Sec. 2. *And be it further enacted*, That the time limited by the act supplementary to the act further extending the time for issuing and locating military land warrants, and for other purposes, approved March ninth, one thousand eight hundred and eighteen, for issuing military land warrants, shall be extended to the fourth day of March, one thousand eight hundred and twenty-one, and the time limited by the said act for the location of unlocated military land warrants, shall be extended to the first day of October thereafter.

[21.]

[*Laws of the U. S., vol. 6, page 582.*]

CHAP. 700. An act to regulate the location of land warrants, and the issuing of patents in certain cases.

1. Assignees of warrants issued to Canadian volunteers may locate them and receive patents in their own names: No location prior to an offer at public sale.

APPROVED, MARCH 3, 1821.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the holders, by assignment, of warrants issued under the acts of Congress of the fifth of March, eighteen hundred and sixteen, the third of March, eighteen hundred and seventeen, to Canadian volunteers, may be, and hereby are, authorized to locate the said warrants, and to receive patents therefor in their own names, as had been the practice before the twenty-sixth of December, eighteen hundred and nineteen: *Provided, however*, That in no case shall lands be so located until after having been exposed to public sale, shall remain unsold.

[22.]

[*Laws of the U. S., vol. 7, page 312.*]

CHAP. 407. An act to allow further time to complete the issuing and locating of military land warrants.

1. The issuing of land warrants revived and continued in force for five years.

APPROVED, MAY 26, 1824.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the

authority granted to the Secretary of the Department of War, by an act approved the twenty-fourth day of February, one thousand eight hundred and nineteen, to issue warrants for the military land bounties to persons entitled thereto, shall be revived and continued in force for the term of five years.

[23.]

[*Laws of the U. S., vol. 7, page 425.*]

CHAP. 552. An act to extend the time of issuing and locating military land warrants to officers and soldiers of the revolutionary army.

1. The time limited by the act of 24th February, 1819, for issuing military land warrants, extended.

APPROVED, MARCH 3, 1825.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the time limited by the second section of the act approved the twenty-fourth day of February, one thousand eight hundred and nineteen, for issuing military land warrants to the officers and soldiers of the revolutionary army, shall be extended till the fourth of March, one thousand eight hundred and twenty seven, and the time for locating the unlocated warrants shall be extended till the first day of October thereafter.

[24.]

[*Laws of the U. S., vol. 7, page 520.*]

CHAP. 708. An act authorizing certain soldiers in the late war to surrender the bounty lands drawn by them, and to locate others in lieu thereof.

1. Soldiers, or their heirs, to whom bounty lands have been patented, in Arkansas, unfit for cultivation, to receive in exchange a like quantity on any of the unappropriated lands in the military district in said Territory: Duty of the Register to give a certificate of the lands so located and entered: Duty of the Commissioner of the General Land Office: Before such certificate be granted, the applicant is to satisfy the Register that his interest in the land before patented to him has not been divested: Such surrender to be made on or before the 1st of January, 1830.

APPROVED, MAY 22, 1826.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* it shall and may be lawful for any soldiers in the late war, or their heirs, to whom bounty lands have been patented, or may hereafter be patented, in the Territory of Arkansas, and which land is unfit for cultivation, and who have removed, or shall hereafter remove, to the said territory, with a view to actual settlement on the lands by them drawn—in all such cases, where it shall be made to appear, in such manner as the Commissioner of the General Land Office shall direct, to the satisfaction of the register and receiver of the proper district, that the land patent-

them is unfit for cultivation, and on the surrender of the land to them granted, accompanied with such a release of their interest as the Commissioner of the General Land Office shall require, such soldier, or his heirs, may locate and enter with the register of the land office for the proper district in the Territory of Arkansas, according to the sectional and divisional lines, the same quantity on any of the unappropriated public lands in any military district in said territory; and upon such entry and location being made, it shall be the duty of the register to issue to the person so locating a certificate specifying the quarter or section of land so located and entered; and it shall be the duty of the Commissioner of the General Land Office, if he is satisfied such certificate was fairly obtained, to issue a patent for the lands so located, whenever the certificate aforesaid shall be presented to him for that purpose: *Provided*, That before such certificate of location shall be granted, the applicant shall satisfy the register and receiver that his interest in the land originally located to him has not been divested, either by his own acts, or the operation of law, for taxes or otherwise: *And provided*, That such surrender and relocation shall be made on or before the first day of January, eighteen hundred and thirty. But, if his interest shall have been divested in either mode above mentioned, no title shall be acquired to the land subsequently located.

[25.]

[*Laws of the U. S., vol. 7, page 560.*]

§. 753. An act to extend the time of issuing and locating military land warrants to officers and soldiers of the revolutionary army.

APPROVED, MARCH 2, 1827.

c. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the time limited by the second section of the act approved the twenty-fourth day of February, one thousand eight hundred and sixteen, for issuing military land warrants to the officers and soldiers of the revolutionary army, shall be extended till the first day of October thereafter.

[26.]

[*Laws of the U. S., vol. 8, page 181.*]

§. 175. An act to allow further time to complete the issuing and locating of military land warrants.

APPROVED, FEBRUARY 5, 1829.

c. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That

the act entitled "An act to allow further time to complete the issuing and locating of military land warrants," approved the twenty-sixth day of May, one thousand eight hundred and twenty-four, and, also, the operations of the act approved the twenty-fourth day of May, one thousand eight hundred and nineteen, which, by the said act of one thousand eight hundred and twenty-four, is revived, be, and the said acts are hereby, extended and continued in force for the term of five years from and after the twenty-sixth day of May next.

[27.]

[*Laws of the U. S., vol 8, page 263.*]

CHAP. 261. An act to continue in force "An act authorizing certain soldiers in the late war to surrender the bounty lands drawn by them, and to locate others in lieu thereof," and for other purposes.

1. Military bounty lands unfit for cultivation may be exchanged.

APPROVED, MARCH 23, 1830.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the act of the twenty-second of May, one thousand eight hundred and twenty-six, entitled "An act authorizing certain soldiers in the late war to surrender the bounty lands drawn by them, and to locate others in lieu thereof, be, and the same is hereby, continued in force for the term of five years. And the provisions of the above recited act shall be, and the same are hereby, extended to those having like claims in the States of Illinois and Missouri.

[28.]

[*Laws of the U. S., vol. 8, page 624.*]

CHAP. 731 An act for the relief of Richard W. Steele, a soldier in the late war.

APPROVED, JUNE 25, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* Richard W. Steele, a soldier in the late war, be, and he hereby is, authorized to enter, of any of the lands of the United States subject to entry at this time, one quarter section of land, the same being due to him for and on account of a bounty for his services as a soldier in the late war against Great Britain; for which, when so entered, the register of the proper land office shall give him a certificate, upon the presentation of which to the Commissioner of the General Land Office a patent shall be issued in due form.

[29.]

[*Laws of the U. S., vol. 8, page 677.*]

CHAP. 791. An act to extend the time of issuing military land warrants to officers and soldiers of the revolutionary army.

1. Extend time for issuing military land warrants. 2. Additional land or scrip granted for Virginia land warrants. 3. Lost warrants.

APPROVED, JULY 13, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the time allowed for issuing military land warrants to the officers and soldiers of the revolutionary army, shall be extended to the first day of January, eighteen hundred and thirty-five.

SEC. 2. *And be it further enacted,* That the further quantity of three hundred thousand acres of land be, and the same is hereby, appropriated, in addition to the quantity heretofore appropriated by the act entitled "An act for the relief of certain officers and soldiers of the Virginia line and navy, and of the continental army during the revolutionary war," approved the thirtieth of May, eighteen hundred and thirty, which said appropriation shall be applied in the manner provided by the said act to the unsatisfied warrants which have been or may be issued as therein directed, to the officers and soldiers and others, as described in the first, fifth, and seventh sections of said act.

SEC. 3. *And be it further enacted,* That the last paragraph of the first section of the said act, which authorizes the issuing of warrants upon an affidavit that the original was lost, and upon the production of an official copy thereof, shall be, and the same is hereby, repealed.

[30.]

[*Laws of the U. S., vol. 8, page 734.*]

CHAP. 878. An act for the relief of Elizabeth Scott, only surviving child and heir-at-law of Captain William Blackwell, deceased.

APPROVED, JULY 14, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he is hereby, authorized, directed, and required, to issue to Elizabeth Scott, a land warrant for three hundred acres of military bounty land, as and for the lands to which her father, Captain William Blackwell, was entitled on account of his military services in the war of the revolution; and that the same may be located on any vacant or unlocated lands heretofore appropriated by Congress for that purpose.

[31.]

[*Laws of the U. S., vol. 8, page 771.*]

CHAP. 933. An act for the relief of Sarah Carr, widow of Richard Carr, deceased.

APPROVED, FEBRUARY 20, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper officers of the Department of War be, and they are hereby, directed to issue to, and perfect for, Sarah Carr, widow of Richard Carr, deceased, late a private soldier of the twenty-fourth regiment of United States infantry, the warrant and patent to which the said Richard Carr was entitled for military bounty lands; there being no heir or heirs of the said Richard, living within the United States, to whom the same can issue.*

[32.]

[*Laws of the U. S., vol. 8, page 838.*]

CHAP. 983. An act granting an additional quantity of land for the location of revolutionary bounty land warrants.

APPROVED, MARCH 2, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the further quantity of two hundred thousand acres of land be, and the same is hereby, appropriated, in addition to the quantity heretofore appropriated by the act entitled "An act for the relief of certain officers and soldiers of the Virginia line and navy, and of the continental army during the revolutionary war," approved the thirtieth May, one thousand eight hundred and thirty, and the act entitled "An act to extend the time of issuing military land warrants to officers and soldiers of the revolutionary war," approved the thirteenth July, one thousand eight hundred and thirty-two, which said appropriations shall be applied in the manner provided by the said acts to the unsatisfied warrants, whether original or duplicate, which have been or may be issued as therein directed to the officers and soldiers, and others, as described in said acts: Provided, That the said certificates of scrip shall be receivable in payment of any of the public lands liable to sale at private entry.*

[33.]

[*Laws of the U. S., vol. 8, page 852.*]

CHAP. 1009. An act for the relief of James Range, a soldier of the revolution.

APPROVED, MARCH 2, 1833.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

It shall be the duty of the Secretary of the Treasury to issue to James Range, upon his surrendering to the Commissioner of the General Land Office a duplicate of a warrant for one hundred acres, number six thousand three hundred and fifty-four, (the original of which being lost,) issued to him upon the twenty-first of January, one thousand eight hundred and twenty, by the State of Virginia, for one hundred acres of land, due said Range, in consideration of three years' service as a private in the continental line, land scrip at the rate of one dollar and twenty-five cents per acre, in the same form as though the original of said warrant was surrendered; which scrip shall be received in payment for any lands subject to private entry in either of the States of Ohio, Indiana, or Illinois.

[34.]

[*Laws of the U. S., vol. 9, page 42.*]

CHAP. 65. An act for the relief of the widow and children of George Ludlum, deceased.

APPROVED, JUNE 19, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, authorized and directed to issue a warrant to the widow and children of George Ludlum, deceased, for the military bounty land of the said George, who, during the late war, enlisted as a private in the twenty-ninth United States infantry, for and during the war, and who continued in service until the close thereof.

[35.]

[*Laws of the U. S., vol 9, page 89.*]

CHAP. 107. An act for the relief of William Weeden.

APPROVED JUNE 28, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That William Weeden be, and he is hereby, authorized to enter any other quarter section of unappropriated land within the Arkansas military district of bounty lands, instead of the northeast quarter of section twenty-two, of township five north, and range twelve west; for which a patent issued to said Weeden on the twenty-seventh day of November, one thousand eight hundred and twenty-one, but was not received by him until said quarter section was sold for the taxes due thereon: *Provided*, That said Weeden shall first surrender said patent, and file his relinquishment of all claim to said quarter section in the General Land Office.

[36.]

[*Laws of the U. S., vol. 9, page 89.*]

CHAP. 108. An act for the relief of Elijah Lincoln.

APPROVED, JUNE 28, 1834.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to issue to Elijah Lincoln a military land warrant for one hundred acres of land, for revolutionary services, in lieu of a warrant, number one thousand and ninety-two, alleged to have been issued to Elijah Lincoln in the year one thousand eight hundred, and to have been lost.*

[37.]

[*Laws of the U. S., vol. 9, page 195.*]

CHAP. 283. An act to allow further time to complete the issuing and locating of military land warrants during the late war.

APPROVED, JANUARY 27, 1835.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to allow further time to complete the issuing and locating of military land warrants," approved the twenty-sixth day of May, one thousand eight hundred and twenty-four, and, also, the operations of the act approved the twelfth-fourth day of February, one thousand eight hundred and nineteen, which by said act of one thousand eight hundred and twenty-four is revived, be, and the said acts are hereby, extended and continued in force for the term of five years from and after the twenty-sixth day of May last.*

[38.]

[*Laws of the U. S., vol. 9, page 949.*]

CHAP. 1148. An act for the relief of Sarah Angel, and the other heirs at law of Benjamin King, deceased.

APPROVED, FEBRUARY 6, 1839.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he hereby is, directed to cause to be issued to Sarah Angel, and the other heirs at law of Benjamin King, deceased, who was a corporal in the Rhode Island line during the revolutionary war, a duplicate of the warrant which was issued in their favor on the eighteenth of December, eigh-*

teen hundred and nineteen, and numbered eight hundred and thirty-one, for one hundred acres of land; the original of which has been lost, and is hereby revoked.

[39.]

[*Laws of the U. S., vol. 9, page 971.*]

CHAP. 1186. An act authorizing a grant of bounty land to the heirs of Bennett Shurley.

APPROVED, MARCH 2, 1839.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he hereby is, authorized and required to issue to the heirs of Bennett Shurley, deceased, who was a private in the Maryland continental line of the army in the war of the revolution, a duplicate of land warrant number eleven thousand seven hundred and six, for one hundred acres, dated eleventh March, one thousand seven hundred and ninety-one.

[40.]

[*Laws of the U. S., Pamphlet Edition for 1840.*]

CHAP. 9. An act to revive an act authorizing certain soldiers in the late war to surrender the bounty lands drawn by them and to locate others in lieu thereof, and for other purposes.

1. Act of 22d May, 1826, revived and continued for five years; its provisions extended to Illinois and Missouri.

APPROVED, MAY 27, 1840.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act of the twenty-second of May, one thousand eight hundred and twenty-six, entitled "An act authorizing certain soldiers in the late war to surrender the bounty lands drawn by them, and to locate others in lieu thereof," be, and the same is hereby, revived and continued in force for the term of five years; and the provisions of the above recited act shall be, and are hereby, extended to those having like claims in the States of Illinois and Missouri.

[41.]

[*Laws of the U. S., Pamphlet Edition for 1842.*]

CHAP. 37. An act for the relief of Elizabeth Pearce and Mary M. Telfair, daughters and heirs of Israel Pearce.

1. Seven United States military land bounty warrants of one hundred acres each to be issued to them, jointly.

APPROVED, JUNE 4, 1842.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War is authorized, and he is hereby required, to issue to Elizabeth Pearce and Mary M. Telfair, jointly, seven United States military bounty land warrants, of one hundred acres each, which appear to be due to the following named individuals for their services as private soldiers in a Rhode Island regiment, in the war of the revolution, and their right to which they, each and all of them, assigned, in April, seventeen hundred and eighty-four, to Israel Pearce, father of the aforesaid Elizabeth Pearce and Mary M. Telfair, namely: Robert Allen, Marks Barrens, Cæsar Finch, Ichabod Howard, Joseph Wheeler, Hugh McDugal, and Jabez Remington, who each and all appear to be entitled to land bounty, but who assigned their right as aforesaid to Israel Pearce: *Provided,* The said Elizabeth Pearce and Mary M. Telfair shall, on the delivery to them of the land warrants aforesaid, execute and lodge with the Secretary of War their joint bond, with approved security, to indemnify the United States against the legal claim of all other persons to the said warrants.

[42.]

[*Laws of the U. S., Pamphlet Edition for 1844.*]

CHAP. 79. An act for the relief of Henry Newingham.

1. Secretary of War to issue a warrant to him for the bounty land of William Marshall, and Secretary of Treasury to issue scrip for it: Not to prejudice Marshall's heirs.

APPROVED, JUNE 15, 1844.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of War be, and he hereby is, directed to issue to Henry Newingham, in the right of William Marshall, who was a private soldier in Armand's legion of the continental establishment in the revolutionary army, a warrant for the bounty land to which the said Marshall would be entitled as such soldier; and that the Secretary of the Treasury be directed to grant scrip for said warrant, in the manner and on the conditions heretofore prescribed for the grant of scrip for bounty land; the said Marshall having intermarried with the mother of said Newingham, and died without lineal heirs; and having in his lifetime been supported by

the said Newingham, and in consideration thereof, before his death, delivered to him his original certificate of discharge from the army, and declared his intention that the said Newingham should have the benefit of said bounty land: *Provided*, That nothing in this act shall be so construed as to prejudice the claim of any heirs, if any, of said Marshall.

[43.]

[*Laws of the U. S., Pamphlet Edition for 1844.*]

CHAP. 134. An act for the relief of the heirs of Ebenezer Moore.

1. Bounty land warrants for one hundred and sixty acres to be issued to them, which may be located on lands subject to private entry.

APPROVED, JUNE 17, 1844.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War cause to be issued to the heirs of Ebenezer Moore, of the State of New York, a Canadian volunteer, a warrant of one hundred and sixty acres of bounty land, under the act passed March fifth, one thousand eight hundred and sixteen, entitled "An act granting bounties in land and extra pay to certain Canadian volunteers," and the act passed March third, one thousand eight hundred and seventeen, entitled "An act to amend the act entitled 'An act granting bounties in land and extra pay to certain Canadian volunteers,' passed the fifth day of March, one thousand eight hundred and sixteen;" which warrant may be located on any unappropriated land of the United States which is subject to private entry.

[44.]

[*Laws of the U. S., Pamphlet Edition for 1844.*]

CHAP. 164. An act for the relief of Mary M. Telfair.

1. Certain bounty land warrants to be given her. 2. Scrip to be paid her.

APPROVED, JUNE 17, 1844.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That warrants for the bounty lands due to Tobias Briggs and Isaac Curtis, privates in the Rhode Island line, for revolutionary services, shall be made out by the proper officers, and delivered to Mrs. Mary M. Telfair, the only heir and legal representative of Israel Pearce, deceased, who appears to have purchased the right to said bounty lands of the said Briggs and Curtis: *Provided*, That before said warrants shall be delivered to said Mrs. Telfair, she shall execute her own bond to the United States, with good and suffi-

cient security, in such sum as the Secretary of War shall require, to indemnify the said United States against the claim of any other person or persons to said lands.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury shall cause to be paid to said Mrs. Telfair any moneys which may be due to Scipio Brown, a private in the Rhode Island line of the revolutionary army, upon the certificate issued to him for his revolutionary services, which certificate is alleged to have been purchased by, and assigned to said Israel Pearce, the father of said Mrs. Telfair: *Provided*, That before such payment shall be made, the said Mrs. Telfair shall execute her bond, with good and sufficient security, to be approved by said Secretary of the Treasury in double the amount of the sum to be so paid to her, to indemnify the United States against the claim of said Scipio Brown, his executors, administrators or assigns, to the money due on said certificate.

[45.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 123.*]

CHAP. 8. An act to raise for a limited time an additional military force, and for other purposes.

1. Ten additional regiments to be raised. * * * 9. Non-commissioned officers, musicians, and privates, under certain circumstances, to receive a warrant for one hundred and sixty acres of land: Mode of proceeding in case of death of soldier: Every person entitled to receive a land warrant may receive scrip for \$100, bearing 6 per cent. interest: Non-commissioned officers, &c., under certain circumstances, to receive a warrant for forty acres of land, or \$25 in scrip.

APPROVED, FEBRUARY 11, 1847.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in addition to the present military establishment of the United States there shall be raised and organized, under the direction of the President, for and during the war with Mexico, one regiment of dragoons and nine regiments of infantry, each to be composed of the same number and rank of commissioned and non-commissioned officers, buglers, musicians, and privates, &c., as are provided for a regiment of dragoons and infantry, respectively, under existing laws, and shall receive the same pay, rations, and allowances according to their respective grades, and be subject to the same regulations, and to the rules and articles of war, &c.

SEC. 9. *And be it further enacted*, That each non-commissioned officer, musician, or private, enlisted or to be enlisted in the regular army, or regularly mustered in any volunteer company for a period of not less than twelve months, who has served or may serve during the present war with Mexico, and who shall receive an honorable discharge, or who shall have been killed, or died of wounds received or sickness incurred in the course of such ser-

vice, or who shall have been discharged before the expiration of his term of service in consequence of wounds received or sickness incurred in the course of such service, shall be entitled to receive a certificate or warrant from the War Department for the quantity of one hundred and sixty acres, and which may be located by the warrantee, or his heirs at law at any land office of the United States; in one body, and in conformity to the legal subdivisions of the public lands, upon any of the public lands in such district then subject to private entry; and upon the return of such certificate or warrant, with evidence of the location thereof having been legally made, to the General Land Office, a patent shall be issued therefor. That in the event of the death of any such non-commissioned officer, musician, or private, during service, or after his discharge, and before the issuing of a certificate or warrant as aforesaid, the said certificate or warrant shall be issued in favor, and inure to the benefit of his family or relatives, according to the following rules: first, to the widow and to his children; second, his father; third, his mother. And in the event of his children being minors, then the legally-constituted guardian of such minor children shall, in conjunction with such of the children, if any, as may be of full age, upon being duly authorized by the orphans' or other court having probate jurisdiction, have power to sell and dispose of such certificate or warrant for the benefit of those interested. And all sales mortgages, powers, or other instruments of writing, going to affect the title or claim to any such bounty right, made or executed prior to the issue of such warrant or certificate, shall be null and void to all intents and purposes whatsoever, nor shall such claim to bounty right be in any wise affected by, or charged with, or subject to, the payment of any debt or claim incurred by the soldier prior to the issuing of such certificate or warrant: *Provided*, That no land warrant issued under the provisions of this act shall be laid upon any lands of the United States to which there shall be a pre-emption right, or upon which there shall be an actual settlement and cultivation: *Provided, further*, That every such non-commissioned officer, musician, and private, who may be entitled, under the provisions of this act, to receive a certificate or warrant for one hundred and sixty acres of land, shall be allowed the option to receive such certificate or warrant, or a treasury scrip for one hundred dollars; and such scrip, whenever it is preferred, shall be issued by the Secretary of the Treasury to such person or persons as would be authorized to receive such certificates or warrants for lands; said scrip to bear an interest of six per cent. per annum, payable semi-annually, redeemable at the pleasure of the government. And that each private, non-commissioned officer, and musician, who shall have been received into the service of the United States, since the commencement of the war with Mexico, for less than twelve months, and shall have served for such term or until honorably discharged, shall be entitled to receive a warrant for forty acres of land,

which may be subject to private entry, or twenty-five dollars in scrip, if preferred: and in the event of the death of such volunteer during his term of service, or after an honorable discharge, but before the passage of this act, then the warrant for such land or scrip, shall issue to the wife, child, or children, if there be any, and, if none, then to the father, and, if there be no father, then to the mother of such deceased volunteer: *Provided*, That nothing contained in this section shall be construed to give bounty land to such volunteers as were accepted into service, and discharged without being marched to the seat of war.

[46.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 183.*]

CHAP. 59. An act to amend an act entitled "An act to raise for a limited time an additional military force, and for other purposes."

1. How scrip shall be issued under the 9th section of act of February 11th, 1847: Interest when payable: How certificates shall be signed and sealed.

APPROVED, MARCH 3, 1847.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That under the provisions of the ninth section of the act approved February eleventh, eighteen hundred and forty-seven, entitled "An act to raise for a limited time an additional military force, and for other purposes," it shall be the duty of the Secretary of the Treasury to issue treasury scrip therein provided, on the certificate of the Secretary of War, showing the claimant entitled thereto, and not otherwise; and that the stock thus issued shall bear interest from the day of presenting to the Treasury Department such certificate of the Secretary of War in due form, and the interest thereon shall be payable on the first days of January and July in each year, and shall be transferable on the books of the Treasury Department kept in the register's office. Such certificates of stock shall be signed by the register of the treasury under the direction of the Secretary, who shall cause the seal of the department to be affixed thereto, and no other signature shall be required to said stock.

[47.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 562.*]

No. 11. A resolution relative to the payment of dividends or interest on war bounty scrip.

Dividends or interest to be paid to the assignee and holder of war bounty scrip.

APPROVED, AUGUST 10, 1850.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Sec-

retary of the Treasury be, and he is hereby, directed, in redeeming and discharging the obligations upon the government for war bounty scrip, which are made assignable, to pay to the assignee and holder of such obligations, all dividends or interest which have been or shall be declared and set apart, and passed to the credit of the obligee upon the books of the treasury, subsequent to the date of the assignment, unless such dividends or interest has been paid to the obligee before the transfer of the scrip upon the books in the office of the register of the treasury, or the presentation thereof for final payment.

[48.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 563.*]

No. 16. A resolution to amend a resolution approved on the tenth of August, eighteen hundred and fifty, relative to the payment of dividends or interest on war bounty scrip.

Secretary of the Treasury authorized to pay the dividend or interest due on war bounty scrip at the time of its redemption.

APPROVED, SEPTEMBER 26, 1850.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed, where the principal has been heretofore redeemed of any war bounty scrip, to pay the dividend, or dividends, or interest, due at the time of such redemption, to the person or persons who would be entitled to the same under the resolution to which this is an amendment, in case such scrip was hereafter presented for payment or redemption, or that he pay the same to the assignee, attorney, or legal representative, as the case may be.

[49.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 520.*]

CHAP. 85. An act granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States.

1. Certain classes of persons in the military service of the United States during the war of 1812, the war with Mexico, or Indian wars, or their widows or minor children entitled to lands in proportion to certain periods of service. 2. The period during which any officer or soldier was a prisoner to the enemy to be added to his time of actual service. 3. Those entitled to land under this act to receive a certificate from the Department of the Interior for land which may be located at any land office of the United States: The widow of any officer, &c., killed in battle, to receive the benefit of this act. 4. All sales, mortgages, and letters of attorney, affecting any title to land warrants, if made before the issue of said warrants, to be void.

APPROVED, SEPTEMBER 28, 1850.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

each of the surviving, or the widow or minor children of deceased commissioned and non-commissioned officers, musicians, or privates, whether of regulars, volunteers, rangers, or militia, who performed military service in any regiment, company, or detachment, in the service of the United States, in the war with Great Britain, declared by the United States on the eighteenth day of June, eighteen hundred and twelve, or in any of the Indian wars since seventeen hundred and ninety, and each of the commissioned officers who were engaged in the military service of the United States in the late war with Mexico, shall be entitled to lands, as follows: Those who engaged to serve twelve months or during the war, and actually served nine months, shall receive one hundred and sixty acres, and those who engaged to serve six months, and actually served four months, shall receive eighty acres, and those who engaged to serve for any or an indefinite period, and actually served one month, shall receive forty acres: *Provided*, That wherever any officer or soldier was honorably discharged in consequence of disability in the service, before the expiration of his period of service, he shall receive the amount to which he would have been entitled if he had served the full period for which he had engaged to serve: *Provided*, The person so having been in service shall not receive said land, or any part thereof, if it shall appear, by the muster rolls of his regiment or corps, that he deserted, or was dishonorably discharged from service, or if he has received, or is entitled to, any military land bounty under any act of Congress heretofore passed.

SEC. 2. *And be it further enacted*, That the period during which any officer or soldier may have remained in captivity with the enemy shall be estimated and added to the period of his actual service, and the person so detained in captivity shall receive land under the provisions of this act in the same manner that he would be entitled in case he had entered the service for the whole term made up by the addition of the time of his captivity, and had served during such time.

SEC. 3. *And be it further enacted*, That each commissioned and non-commissioned officer, musician, or private, for whom provision is made by the first section hereof, shall receive a certificate or warrant from the Department of the Interior for the quantity of land to which he may be entitled, and which may be located by the warrantee or his heirs-at-law, at any land office of the United States, in one body and in conformity to the legal subdivisions of the public lands, upon any of the public lands in such district then subject to private entry; and upon the return of such certificate or warrant, with evidence of the location thereof having been legally made to the General Land Office, a patent shall be issued therefor. In the event of the death of any commissioned or non-commissioned officer, musician, or private, prior or subsequent to the passage of this act, who shall have served as aforesaid, and who shall not have received bounty land for said services, a like certificate or warrant shall be issued in favor,

and enure to the benefit of his widow, who shall receive one hundred and sixty acres of land in case her husband was killed in battle, but not to her heirs: *Provided*, She is unmarried at the date of her application: *Provided further*, That no land warrant issued under the provisions of this act shall be laid upon any land of the United States to which there shall be a pre-emption right, or upon which there shall be an actual settlement and cultivation, except with the consent of such settler, to be satisfactorily proven to the proper land officer.

SEC. 4. *And be it further enacted*, That all sales, mortgages, letters of attorney, or other instruments of writing, going to affect the title or claim to any warrant or certificate issued, or to be issued, or any land granted, or to be granted, under the provisions of this act, made or executed prior to the issue, shall be null and void to all intents and purposes whatsoever; nor shall such certificate or warrant, or the land obtained thereby, be in any wise affected by, or charged with, or subject to, the payment of any debt or claim incurred by such officer or soldier, prior to the issuing of the patent: *Provided*, That the benefits of this act shall not accrue to any person who is a member of the present Congress: *Provided further*, That it shall be the duty of the Commissioner of the General Land Office, under such regulations as may be prescribed by the Secretary of the Interior, to cause to be located, free of expense, any warrant which the holder may transmit to the General Land Office for that purpose in such State and land district as the said holder or warrantee may designate, and upon good farming land, so far as the same can be ascertained from the maps, plats, and field notes of the surveyor, or from any other information in the possession of the local office, and, upon the location being made as aforesaid, the Secretary shall cause a patent to be transmitted to such warrantee: *And provided further*, That no patent issued under this act shall be delivered upon any power of attorney or agreement dated before the passage of this act, and that all such powers of attorney or agreements be considered and treated as null and void.

[50.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 598.*]

CHAP. 32. An act making appropriations for the civil and diplomatic expenses of Government for the year ending the thirtieth of June, eighteen hundred and fifty-two, and for other purposes.

APPROVED, MARCH 3, 1851.

Surveys of Public Lands.—For surveying the public lands, in addition to the unexpended balance of former appropriations, viz: For surveying the public lands, including incidental expenses, to be appropriated to the several districts according to the

exigencies of the public service, the part to be applied to the surveys required by the location and survey of private claims in Florida, to be disbursed at augmented rates, one hundred and fifteen thousand dollars: *Provided*, That no land bounty for military services granted by the act of twenty-eighth of September, eighteen hundred and fifty, entitled "An act granting bounty land to certain officers and soldiers who have engaged in the military service of the United States," or by virtue of any other act of Congress heretofore passed, granting land bounties for military services, shall be satisfied out of any public land not heretofore brought into market, and now subject to entry at private sale under existing laws.

BOUNTY LANDS AND PENSIONS

TO

SEAFENCIBLES, FLOTILLAMEN, RANGERS, &c.*

[1.]

[*Laws of the U. S., vol. 4, page 366.*]

CHAP. 334. An act authorizing the President of the United States to raise certain companies of rangers for the protection of the frontier of the United States.

1. The President authorized, in case of actual or threatened invasion of any State or Territory by any Indian tribe, to raise not exceeding six companies, to act on the frontier as rangers. 2. Organization of each company of rangers. 3. When the rangers arm and equip themselves, they are each to receive one dollar per day, and seventy-five cents without a horse: Commissioned officers to receive the same pay as officers in the army. 4. Officers and privates raised pursuant to this act to be entitled to like compensation in case of disability, as officers and privates in the military establishment: The provisions of the act fixing the military peace establishment; extended to persons within the intent of this act: This act to continue in force until the 2d of August, 1813. 5. The President may appoint all the officers proper in the recess of the Senate.

APPROVED, JANUARY 2, 1812.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President of the United States, whenever he shall have satisfactory evidence of the actual or threatened invasion of any State or Territory of the United States, by any Indian tribe or tribes, be, and he is hereby, authorized to raise, either by the acceptance of volunteers or enlistment for one year, unless sooner discharged, as many companies as he may deem necessary, not exceeding six, who shall serve on foot, or be mounted, as the service in his opinion may require, shall act on the frontier as rangers, be

* We have thrown together these acts here, not on account of any thing peculiar that is observable in their provisions, but rather to attract attention to certain anomalies in national defence, auxiliary to the naval and military service, whether on the seaboard, in the harbors, or on the frontiers of the United States. With the same view, the act of July 4th, 1836, is also inserted under this head, on account of its provisions for the widows and orphans of rangers and seafencibles, although it provides generally for widows and orphans of officers and privates of the militia and volunteers, as expressed in the act. The laws providing pensions and land bounties for the marine corps, and for privateersmen in time of war, would also have been embraced in this class of anomalous auxiliaries to the regular naval and military defence of the country, except that the permanency of the one, and the ubiquity of the other, (exceeding the naval force itself in the revolutionary war, and not far short of it in the war of 1812,) seemed to entitle them both to the association that has been given them under the naval head. The rationale, however, of these technical distinctions in the nomenclature of the two branches of the national defence seem to deserve consideration in other quarters.

armed, equipped, and organized, in such manner, and be under such regulations and restrictions, as the nature of the service, in his opinion, may make necessary.

SEC. 2. *And be it further enacted*, That each of the said companies of rangers shall consist of one captain, one first, one second lieutenant, one ensign, four sergeants, four corporals, and sixty privates.

SEC. 3. *And be it further enacted*, That when the said rangers arm and equip themselves, and provide their own horses, they shall be allowed, each, one dollar per day, and without a horse, seventy-five cents per day, as full compensation for their services, rations, or forage, as the case may be. The commissioned officers shall receive the same pay and rations as officers of the same grade in the army of the United States.

SEC. 4. *And be it further enacted*, That the officers, non-commissioned officers, and privates, raised pursuant to this act, shall be entitled to the like compensation in case of disability, by wounds or otherwise, incurred in the service, as officers, non-commissioned officers, and privates, in the present military establishment, and, with them, shall be subject to the rules and articles of war, which have been established, or may hereafter by law be established; and the provisions of the act entitled "An act fixing the military peace establishment of the United States," so far as they may be applicable, shall be extended to all persons, matters, and things, within the intent and meaning of this act, in the same manner as if they were inserted at large in the same. This act shall take effect, and be in force, from and after the passage thereof, and continue in force for one year, and from thence to the end of the next session of Congress.

SEC. 5. *And be it further enacted*, That, in the recess of the Senate, the President of the United States is hereby authorized to appoint all the officers proper to be appointed under this act; which appointments shall be submitted to the Senate, at their next session, for their advice and consent.

[2.]

[*Laws of the U. S., vol. 4, page 541.*]

CHAP. 532. An act to amend the "Act in addition to the act entitled 'An act to raise an additional military force, and for other purposes.'"

1. Five of the regiments authorized by the act mentioned may be enlisted for the war, and be limited to the defence of the seaboard. 2. Each man recruited under this act allowed the same bounty as men enlisted for five years: Officers, privates, &c., placed on the same footing as other regular troops.

APPROVED, JULY 5, 1813.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That five of the regiments which were authorized to be raised by "An act

in addition to the act entitled 'An act to raise an additional military force, and for other purposes,'** passed the twenty-ninth day of January, one thousand eight hundred and thirteen, may, at the discretion of the President of the United States, be enlisted for and during the war, unless sooner discharged, and be limited, as to service, to the defence of the seaboard of the United States, or of such part thereof as the President may elect and determine.

SEC. 2. *And be it further enacted*, That each man recruited under the authority of this act, be allowed the same bounty, in money and land, as is allowed by law to men enlisted for five years, or for the war; and that the officers, non-commissioned officers, musicians, and privates, shall receive the same pay, clothing, subsistence, and forage, be entitled to the same benefits, be subject to the same rules and regulations, and be placed, in every respect, on the same footing as the other regular troops of the United States.

[3.]

[*Laws of the U. S., vol. 4, page 579.*]

CHAP. 555. An act to authorize the raising of a corps of sea fencibles.

1. The President authorized to raise not more than ten companies of sea fencibles for a term not exceeding one year, to serve on land or water. 2. Organization of a company of sea fencibles. 3. Commissioned officers to receive the same pay as officers in the army; boatswains, gunners, men, &c., the same pay as warrant officers and able seamen. 4. Officers, men, &c., entitled to the same compensation, in case of disability, as officers and seamen in the naval establishment; and to be subject to the rules and articles for the government of the army. 5. This act to continue in force until the 17th February, 1845. 6. The President may appoint the officers in the recess of the Senate. 7. Two hundred thousand dollars appropriated to carry this act into effect.

APPROVED, JULY 26, 1813.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he is hereby, authorized to raise, for such term as he may think proper, not exceeding one year, as many companies of sea fencibles as he may deem necessary, not exceeding ten, who may be employed as well on land as on water, for the defence of the ports and harbors of the United States.

SEC. 2. *And be it further enacted*, That each of the said companies of sea fencibles shall consist of one captain, one first, one second, and one third lieutenant, one boatswain, six gunners, six quarter-gunners, and ninety men.

* That additional act, above mentioned, contains no bounty land or pension provision; therefore no extract is made from it in this compilation. But the original act "to raise an additional military force" does contain a pension provision, which is quoted in its proper sequence of dates, No. [50.]—ante; and yet the 5th section of that act excludes the land and money bounty granted to the existing military establishment to which this provided an additional military force—thereby creating, most obviously, an invidious distinction between them.

SEC. 3. *And be it further enacted*, That the commissioned officers shall receive the same pay and rations as officers of the same grade in the army of the United States; that the boatswain, gunners, quarter-gunners, and men, shall receive the same pay and rations as warrant officers of the same grade and able seamen receive in the service of the United States.

SEC. 4. *And be it further enacted*, That the officers, warrant officers, boatswains, and men, raised pursuant to this act, shall be entitled to the like compensation in case of disability incurred by wounds, or otherwise, in the service of the United States, as officers, warrant officers, and seamen, in the present naval establishment, and shall be subject to the rules and articles which have been, or may hereafter be, established by law, for the government of the army of the United States.

SEC. 5. *And be it further enacted*, That this act shall be and continue in force during the present war between the United States of America and their territories, and the United Kingdom of Great Britain and Ireland, and the dependencies thereof.

SEC. 6. *And be it further enacted*, That, in the recess of the Senate, the President of the United States is hereby authorized to appoint all the officers proper to be appointed under this act, which appointments shall be submitted to the Senate at their next session, for their advice and consent.

SEC. 7. *And be it further enacted*, That the sum of two hundred thousand dollars be, and the same is hereby, appropriated to carry this act into effect, to be paid out of any money in the treasury, not otherwise appropriated.

[4.]

[*Laws of the U. S., vol 4, page 686.*]

CHAP. 647. An act authorizing the appointment of certain officers of the flotilla service.

1. The President and Senate authorized to appoint four captains and twelve lieutenants, to be employed in the flotilla service. 2. Pay and subsistence of the captains and lieutenants; who are to be governed by the rules provided for the navy. 3. The President may appoint any of the officers authorized, in the recess of the Senate.

APPROVED, APRIL 16, 1814.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint four captains and twelve lieutenants, to be employed in the flotilla service of the United States, without rank in the navy, but with the same relative rank and authority in the flotilla service as officers of the same grade are entitled to in the navy of the United States.

SEC. 2. *And be it further enacted*, That the said captains shall receive the pay and subsistence of a captain in the navy

commanding a ship of twenty, and under thirty-two guns, and the lieutenants the same pay and subsistence as officers of the same rank are entitled to in the navy of the United States, and shall be governed by the rules and regulations provided for the government of the navy.

SEC. 3. *And be it further enacted*, That it shall be lawful for the President of the United States to appoint, in the recess of the Senate any of the officers authorized by this act, which appointments shall be submitted to the Senate at their next session.

[5.]

[*Laws of the U. S., vol. 4, page 813.*]

CHAP. 744. An act to repeal certain acts concerning the flotilla service, and for other purposes.

1. An act concerning barges, and an act authorizing the appointment of officers for the flotilla service, repealed. 2. Barges and other vessels of the flotilla to be sold or laid up, 3. Officers and privates discharged to receive four months' extra pay. 4. The President authorized to cause the armed vessels on the lakes to be sold or laid up. 5. An act authorizing the purchase or building of vessels, repealed: Vessels acquired under the act may be sold. 6. The President authorized to cause gunboats to be sold; Warrant officers and privates discharged, entitled to four months' extra pay.

APPROVED, FEBRUARY 27, 1815.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the first day of April next, the act, entitled "An act authorizing the President of the United States to cause to be built barges for the defence of the ports and harbors of the United States," passed the fifth day of July, in the year one thousand eight hundred and thirteen; and also an act entitled "An act authorizing the appointment of certain officers for the flotilla service," passed the sixteenth day of April, in the year one thousand eight hundred and fourteen, shall be repealed and cease to be in force.

SEC. 2. *And be it further enacted*, That the barges and other vessels composing the flotilla establishment, (they being first divested of their guns and military stores, which are to be carefully preserved,) shall be sold or laid up under the direction of the President of the United States, and the moneys arising therefrom paid into the treasury thereof.

SEC. 3. *And be it further enacted*, That all the commissioned and warrant officers, and all the privates who shall be discharged in consequence of the repeal of the acts aforesaid, shall be entitled to receive four months' pay, over and above what may be due to them, respectively, at the time of their discharge.

SEC. 4. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to cause all the armed vessels thereof on the lakes, except such as he may deem necessary to enforce the proper execution of the revenue laws, to

be sold or laid up as he may judge most conducive to the public interest; such vessels being first divested of their armament, tackle, and furniture, which are to be carefully preserved.

SEC. 5. *And be it further enacted*, That the act entitled "An act authorizing the President of the United States to cause to be built, or purchased, the vessels therein mentioned," passed the fifteenth day of November, in the year one thousand eight hundred and fourteen, be, and the same is hereby, repealed; and the President of the United States is hereby authorized to cause to be sold such of the vessels acquired under the said act as he may deem inexpedient to be retained in the public service; and to cause the money arising therefrom to be paid into the public treasury.

SEC. 6. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized to cause to be sold, they being first divested of their guns and military stores, which are to be carefully preserved, such and so many of the gunboats belonging to the United States as in his judgment may no longer be necessary to be retained for the public service; and such of the warrant officers and privates as may be discharged in consequence of such sale, shall be entitled to receive four months' pay, over and above what may be due to them at the time of their discharge.

[6.]

[*Laws of the U. S., vol. 8, page 591.*]

CHAP. 717. An act to authorize the President to raise mounted volunteers for the defence of the frontier.

1. Mounted rangers raised for defence of frontiers. 2. Organization. 3. To arm and equip themselves; their pay: Officers' pay and emoluments. 4. Pensions in case of disability: Subject to rules and articles of war.

APPROVED, JUNE 15, 1832.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he is hereby, authorized to raise, either by the acceptance of volunteers, or enlistment for one year, unless sooner discharged, six hundred mounted rangers, to be armed, equipped, mounted, and organized in such manner, and to be under such regulations and restrictions as the nature of the service may, in his opinion, make necessary.

SEC. 2. *And be it further enacted*, That each of the said companies of rangers shall consist of one captain, one first, one second, and one third lieutenant, five sergeants, five corporals, and one hundred privates, the whole to form a battalion, and be commanded by a major.

SEC. 3. *And be it further enacted*, That the said non-commissioned officers and privates shall arm and equip themselves, unless otherwise ordered by the President, and provide their own

horses, and shall be allowed each one dollar per day as a full compensation for their services and the use of their arms and horses. The commissioned officers shall receive the same pay and emoluments as officers of the same grade in the army of the United States; and the officers shall be allowed forage for their horses, and be entitled to the same rations as those of the same grade in the army of the United States respectively.

SEC. 4. *And be it further enacted*, That the officers non-commissioned officers, and privates, raised pursuant to this act, shall be entitled to the like compensation, in case of disability, by wounds, or otherwise, incurred in the service, as has heretofore been allowed to officers, non-commissioned officers, and privates in the military establishment of the United States, and shall be subjected to the rules and articles of war, and such regulations as have been or shall be established according to law for the government of the army of the United States, as far as the same may be applicable to the said rangers within the intent and meaning of this act, for the protection and defence of the north-western frontier of the United States. * * *

[7.]

[*Laws of the U. S., Statutes at Large, vol. 5, page 127.*]

CHAP. 362. An act granting half pay to widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States in certain cases, and for other purposes.

1. Five years' half pay to widows and orphans of those who have died in the service, of the United States since 20th April, 1818. 2. Benefit of the act of 7th June, 1832, extended to widows or children under certain circumstances. 3. Extended to widows in other cases. 4. Transfers of any claim under this act declared void. 5. Secretary of War to adopt forms.

APPROVED, JULY 4, 1836.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That when any officer, non-commissioned officer, musician or private of the militia, including rangers, seafencibles, and volunteers, shall have died while in the service of the United States, since the twentieth day of April, eighteen hundred and eighteen, or who shall have died in consequence of a wound received whilst in the service, since the day aforesaid, and shall have left a widow, or, if no widow, a child or children under sixteen years of age, such widow, or if no widow, such child or children, shall be entitled to receive half the monthly pay to which the deceased was entitled at the time of his death or receiving such wound, for and during the term of five years; and in case of the death or marriage of such widow before the expiration of said five years, the half pay for the remainder of the time shall go to the said decedent: *Provided*, That the half pay aforesaid shall be half the monthly pay

of the officers, non-commissioned officers, musicians and privates of the infantry of the regular army, and no more: *Provided, also*, That no greater sum shall be allowed to the widow or to the child or children of any officer, than the half pay of a lieutenant colonel.

SEC. 2. *And be it further enacted*, That if any officer, non-commissioned officer, musician, soldier, Indian spy, mariner or marine, whose service during the revolutionary war was such as is specified in the act passed the seventh day of June, eighteen hundred and thirty-two, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the revolution," have died since the fourth day of March, eighteen hundred and thirty-one, and before the date of said act, the amount of pension which would have accrued from the fourth day of March, eighteen hundred and thirty-one, to the time of his death, and become payable to him by virtue of that act, if he had survived the passage thereof, shall be paid to his widow; and if he left no widow, to his children, in the manner prescribed in the act hereby amended.

SEC. 3. *And be it further enacted*, That if any person who served in the war of the revolution, in the manner specified in the act passed the seventh day of June, eighteen hundred and thirty-two, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the revolution," have died, leaving a widow whose marriage took place before the expiration of the last period of his service, such widow shall be entitled to receive, during the time she may remain unmarried, the annuity or pension which might have been allowed to her husband, by virtue of the act aforesaid, if living at the time it was passed.

SEC. 4. *And be it further enacted*, That any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any money or half pay granted by this act, shall be utterly void and of no effect; each person acting for and in behalf of any one entitled to money under this act, shall take and subscribe an oath, to be administered by the proper accounting officers and retained by him and put on file, before a warrant shall be delivered to him, that he has no interest in said money by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been so disposed of to any person whatever.

SEC. 5. *And be it further enacted*, That the Secretary of War shall adopt such forms of evidence, in applications under this act, as the President of the United States shall prescribe.

ADDENDA.

[The following acts were omitted, but are referred to, in the sequence of dates. The entire act [1] is here introduced not only on account of the pension clause, but to show the amphibious character of the marine corps service; and that marked [2] to show the management and disposition of the navy pension fund.]

[1.]

[*Laws of the U. S., vol. 3, page 95.*]

CHAP. 89. An act for the establishing and organizing a marine corps.

1. A corps of marines to be raised and organized, in addition to the present military establishment: The corps may be formed into companies. 2. Pay and subsistence: The marine corps being ordered to do duty on shore, the commandant of the corps may appoint the necessary staff officers. 3. Detachment of the corps to be in lieu of the quotas established for the frigates. 4. Officers, &c., of the corps to take an oath; be governed by established rules; be entitled to the same allowance in case of wounds, as granted by the act mentioned. 5. Exemption of non-commissioned officers, &c., from arrest for debts or contracts. 6. The marine corps liable to do duty in forts and garrisons.

APPROVED, JULY 11, 1798.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in addition to the present military establishment, there shall be raised and organized a corps of marines, which shall consist of one major, four captains, sixteen first lieutenants, twelve second lieutenants, forty-eight sergeants, forty-eight corporals, thirty-two drums and fifes, and seven hundred and twenty privates, including the marines who have been enlisted, or authorized to be raised, for the naval armament; and the said corps may be formed into as many companies, or detachments, as the President of the United States shall direct, with a proper distribution of the commissioned and non-commissioned officers and musicians to each company or detachment.

SEC. 2. *And be it further enacted,* That the pay and subsistence of the said officers, privates, and musicians shall be as follows, to wit: to a major, fifty dollars per month, and four rations per day; to a captain, forty dollars per month, and three rations per day; to a first lieutenant, thirty dollars per month, and three rations per day; to a second lieutenant, twenty-five dollars per month, and two rations per day; and to non-commissioned officers, privates, and musicians, conformably to the act entitled "An act providing a naval armament," as shall be fixed by the President of the United States; and the President of the United States

shall be, and is hereby, authorized to continue the enlistment of marines until the said corps shall be complete, and, of himself, to appoint the commissioned officers, whenever, in the recess of the Senate, an appointment shall be necessary. And the enlistments, which shall be made by virtue hereof, may be for the term of three years, subject to be discharged by the President of the United States, or be the ceasing or repeal of the laws providing for the naval armament. And if the marine corps, or any part of it, shall be ordered by the President to do duty on shore, and it shall become necessary to appoint an adjutant, paymaster, quartermaster, sergeant major, quartermaster sergeant, and drum and fife major, or any of them, the major or commandant of the corps is hereby authorized to appoint such staff officer or officers, from the line of subalterns, sergeants, and music, respectively, who shall be entitled, during the time they shall do such duty, to the same extra pay and emoluments which are allowed by law to officers acting in the same capacities in the infantry.

SEC. 3. *And be it further enacted*, That detachments of the corps of marines hereby authorized shall be made in lieu of the respective quotas of marines which have been established or authorized for the frigates, and other armed vessels and galleys, which shall be employed in the service of the United States: and the President of the United States may detach and appoint such of the officers of this marine corps to act on board the frigates, and any of the armed vessels of the United States, respectively, as he shall, from time to time, judge necessary, any thing in the act "providing a naval armament" to the contrary hereof notwithstanding.

SEC. 4. *And be it further enacted*, That the officers, non-commissioned officers, privates, and musicians, aforesaid, shall take the same oath, and shall be governed by the same rules and articles of war, as are prescribed for the military establishment of the United States, and by the rules for the regulation of the navy, heretofore, or which shall be established by law, according to the nature of the service in which they shall be employed, and shall be entitled to the same allowance, in case of wounds or disabilities, according to their respective ranks, as are granted by the act "to ascertain and fix the military establishment of the United States."

SEC. 5. *And be it further enacted*, That the non-commissioned officers, musicians, seamen, and marines, who are or shall be enlisted into the service of the United States; and the non-commissioned officers and musicians, who are or shall be enlisted into the army of the United States, shall be, and they are hereby, exempted, during their term of service, from all personal arrests for any debt or contract.

SEC. 6. *And be it further enacted*, That the marine corps, established by this act, shall, at any time, be liable to do duty in the forts and garrisons of the United States, on the seacoast, or any other duty on shore, as the President, at his discretion, shall direct.

[2.]

[*Laws of the U. S., vol. 3, page 615.*]

CHAP. 401. An act in relation to the navy pension fund.

1. Money accruing from the capture of prizes, not already paid, to be paid to the Treasurer of the United States. 2. The Treasurer to receive the money and disburse it: A distinct quarterly account of moneys received and disbursed to be rendered by the Treasurer. 3. The accountant of the navy to receive and settle all accounts in relation to the navy pension fund. 4. The Comptroller authorized to direct suits for sums due to the United States for prizes. 5. The commissioners of the navy pension fund may appoint a secretary with a salary not exceeding two hundred and fifty dollars per annum. 6. The commissioners directed to make regulations for the admission of pensioners.

APPROVED, MARCH 26, 1804.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all the money accruing, or which has already accrued, to the United States, from the capture of prizes authorized by law, and which has not already been paid to the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, as commissioners of the navy pension fund, shall be paid to the Treasurer of the United States.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Treasurer of the United States to receive all the money so accruing, and to disburse the same, pursuant to warrants from the Secretary of the Navy; and a distinct quarterly account of the moneys thus received and disbursed shall be rendered by the said Treasurer to the accounting officers of the treasury, in the same manner as is provided for other public moneys received by him.

SEC. 3. *And be it further enacted,* That it shall be the duty of the accountant of the navy to receive and settle all accounts whatever, in relation to the navy pension fund, and report, from time to time, all such settlements as shall have been made by him, for the inspection and revision of the accounting officers of the treasury, in the same manner as in other cases of public accounts.

SEC. 4. *And be it further enacted,* That the Comptroller of the Treasury shall be fully authorized and empowered to direct suits for the recovery of any sums now due, or which may hereafter be due, to the United States, for prizes as aforesaid, and to prosecute the same in the name of the United States, in the same manner as in other cases for the recovery of moneys due to the United States.

SEC. 5. *And be it further enacted,* That the commissioners of the navy pension fund be, and they are hereby, authorized to appoint a secretary, who shall perform all such duties, in relation to the fund, as they shall require of him; and shall receive for his services a salary not exceeding two hundred and fifty dollars per annum, to be paid quarter-yearly, at the Treasury of the United States, and charged to the same fund.

SEC. 6. *And be it further enacted,* That the commissioners of the navy pension fund be, and they are hereby, authorized and directed to make such regulations, as may to them appear expedient, for the admission of persons on the roll of navy pensioners, and for the payment of the pensions.

[3.]

[*Laws of the U. S., vol. 4, page 631.*]

CHAP. 586. An act to amend and explain the act regulating pensions to persons on board of private armed ships.

1. The act regulating pensions to persons on board private armed ships, to be construed to authorize the Secretary of the Navy to place on the pension list any officer, seaman, or marine, belonging to any private armed vessel, who has been wounded in the line of his duty.

APPROVED, AUGUST 2, 1813.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act regulating pensions to persons on board private armed ships shall be so construed to authorize the Secretary of the Navy to place on the pension list, under the restrictions and regulations of the said act, any officer, seaman, or marine, belonging to any private armed ship or vessel of the United States, bearing a commission of letter of marque, who shall have been wounded, or otherwise disabled, in the line of their duty as officers, seamen, or marines, of such private armed ship or vessel.

[4.]

[*Laws of the U. S., vol. 9, page 655.*]

CHAP. 809. An act explanatory of the act entitled "An act granting half pay to widows and orphans, where their husbands and fathers have died of wounds received in the military service of the United States, and for other purposes."

1. Widows who married after death of first husband entitled to pension. 2. Widows who married before 3d November, 1783, also entitled to pensions.

APPROVED, MARCH 3, 1837.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the benefits of the third section of the act entitled "An act granting half pay to widows and orphans where their husbands and fathers have died of wounds received in the military service of the United States, and for other purposes," approved the fourth day of July, eighteen hundred and thirty-six, shall not be withheld from any widow in consequence of her having married after the decease of the husband, for whose services she may claim to be allowed a pension or annuity under said act: *Provided,* That she was a widow at the time it was passed.

SEC. 2. *And be it further enacted,* That the widow of any person who continued in the service of the United States until the third day of November, seventeen hundred and eighty-three, and was married before that day, and while her husband was in such service, shall be entitled to the benefits of the third section of the aforesaid act.

APPENDIX.

APPENDIX.

- I. OPINIONS OF ATTORNEYS GENERAL ON PENSIONS AND LAND BOUNTIES.
- II. DECISIONS OF SECRETARIES ON PENSIONS AND LAND BOUNTIES.
- III. REGULATIONS, FORMS, AND INSTRUCTIONS OF SECRETARIES ON PENSIONS AND LAND BOUNTIES.

II.

OPINIONS OF ATTORNEYS GENERAL

OF

THE UNITED STATES,

IN RELATION TO

PENSIONS* AND LAND BOUNTIES.

[1.]

BOUNTY LAND.—A second warrant issued by inadvertence, and located after one had been issued for the same land, but not located, shall not exclude the right of the first warrantee to locate elsewhere.

WASHINGTON, *March 22, 1815.*

Question stated by the Secretary of War.—A military land warrant is issued, and a patent thereon duly obtained for the land, in ignorance that a former warrant, in satisfaction of the same claim, had issued and was in existence, but never located. The first warrant is then presented at the Land Office. Can it be allowed location after the regular location and patent of the second warrant?

Answer.—If the Government improvidently issue a second warrant for a claim on which it had granted a former one, I do not think that this circumstance alone should deprive the first warrantee of any of his rights. The neglect to locate is protected by the various acts of Congress which have passed from time to time, enlarging the period for the location of warrants for military bounty lands, even down to the act of July 5, 1813, which

* Mr. Wirt's opinion, No. [7.] is the first on pension laws of which any record is preserved, the opinions of Attorneys General not having been preserved anterior to the appointment of Mr. Wirt, as will be seen by the following extract from vol. A. in the Attorney General's Office :

ATTORNEY GENERAL'S OFFICE, *13th November, 1817.*

"Finding on my appointment, this day, no books, or documents, or papers of any kind, to inform me of what had been done by any one of my predecessors, since the establishment of the Federal Government, and feeling very strongly the inconvenience, both to the nation and myself, from this omission, I have determined to remedy it, so far as depends on myself, and to keep a regular record of every official opinion which I shall give while I hold this office, for the use of my successor.

"To make the arrangement as perfect as I can, I have prevailed on the Heads of Departments to furnish me with copies of all the Documents on which I shall be consulted, and which will be found filed and numbered, to correspond with the numbers in the margin prefixed to each opinion. A copious index to this book is also given, with references, under various heads, to each, for the greater facility of using the book."

[Signed]

WM. WIRT.

[Other opinions obtained, however, from other sources, have been introduced.]

gives until the 1st of October, 1816, for their location. If, therefore, the first warrantee, in the case stated, stands in a predicament to be entitled to his location and patent on all other grounds, I am of opinion that the fact of the second warrant and patent having been issued should not exclude him.

RICHARD RUSH, *Attorney General*.

[2.]

INVALIDS AND THEIR DISABILITY IN LINE OF DUTY.—1. The first clause of the 14th section of the act of Congress of March 16, 1802, in reference to invalid pensioners, considered. In what other way than by wounds must the disability have been incurred to entitle the applicant to the pension; various modes stated; as the act of God in a stroke of the sun; unavoidable casualties occurring in the line of duty.

2. Line of duty what: Every officer, in full commission, and not on furlough, considered in line of duty, although at the moment not employed: the same of a soldier who is kept in pay: some qualifications and exceptions. If loss of health is produced by careless, irregular, or vicious habits, or if constitution is impaired, or germ of disease is seated at the time of entering the service, then there is cause for extreme caution, or an entire exclusion from the pension: various illustrations.

WASHINGTON, April 6, 1815.

The Secretary of War having, in a letter of the 4th instant, desired my opinion on the true meaning of the first clause of the 14th section of the act of Congress, passed on the 16th of March, 1802, for fixing the military peace-establishment, I have the honor to submit the following:

1. The words of the clause are: "That, if any officer, non-commissioned officer, musician, or private, in the corps composing the peace-establishment, shall be disabled by wounds or otherwise while in the line of his duty in public service, he shall be placed on the list of invalids of the United States, at such rate of pay, and under such regulations, as may be directed by the President of the United States for the time being."

The question made is, in what other way than by wounds must the disability have been incurred, to entitle the party to the pay provided?

The words of the section are not quite so distinct as to remove all grounds for diversity of opinion; yet, unless some liberality in their interpretation be allowed, it is to be feared that the benignant intentions of the law might be in danger of being curtailed or frustrated. The expression "or otherwise" is placed in contradistinction to wounds. In its primary signification, it may be taken to import a disability brought on by the direct and apparent agency of accidents or inflictions from the hand of God or men, happening to the party while in the immediate and obvious discharge of his duty, but which could not, with technical propriety, be denominated *wounds*. Instances of this kind may readily be conceived;—as if an officer, exercising his men on a hot day, should receive a stroke of the sun; a musician, while obeying an order to sound his bugle, should rupture a blood-vessel; or a soldier, while working upon fortifications, should dislocate a

limb: in such, and similar cases that may be imagined, it cannot be doubted but that the disability would be brought on in a mode to meet the alternative stated in the act. It will be to enlarge it but a little more, and, as is conceived, to uphold its genuine and humane spirit, as well as its legal sense, to say that the connexion between the inflicting agent and consequent disability need not always be so direct and instantaneous. It will be enough if it be derivative, and the disability be plainly, though remotely, the incident and result of the military profession. Such are the changes and uncertainties of the military life—such are oftentimes its trials, as well as its hazards—that the seeds of disease, which finally prostrate the constitution, may have been hidden as they were sown, and thus be in danger of not being recognised as first causes of disability in a meritorious claim put forth for the bounty of the act. It would not, I think, be going too far to say, that, in every case where an officer or private loses his health while in the service, to such a degree as to be disabled from performing his duty any more, he is contemplated, *prima facie*, as an object of this charitable relief from the Legislature.

2. I feel more doubtful in fixing, by any undeviating standard, what is meant by being in the line of his duty. Upon this point, I should presume, however, that every officer in full commission, and not on furlough, must be considered in the line of his duty, although, at the moment, no particular or active employment is devolved upon him. The same of a soldier who is kept in pay; for it is presupposed of both the one and the other that they are at all times prepared for duty; and it is surely of indispensable obligation upon them to keep themselves detached from other pursuits, so as to be ready at a moment to answer any call emanating from those who may be authorized to command them. Perhaps a voluntary absence, too long continued, on the part of an officer from his station, might form an exception, so as to exclude the idea of his being in the line of his duty during any accident or sickness palpably proceeding from causes while he was away. But the officer who, by reason of marches in damp or cold weather, or who, from being in garrison exposed to marshy exhalations, finds, even at some interval, his constitution broken down by rheumatism, or enfeebled by the constant recurrence of fevers, is surely as just an object of this humane stipend at the hands of the Government, as he who may have had his arm shattered by a bullet. Such cases are again put only as examples. Others may also be supposed, in which the performance of military duty, in some of the various shapes it may be made to assume, has proved the original, though it may not be admitted as the proximate, cause of the disability superinduced.

In the discretion which is vested in the President, a sufficient guard is established that an interpretation of the act, such as is indicated by the foregoing remarks, will not open the way to abuse. If the loss of health should have proceeded from careless or irregular habits in the party—much more if from vicious ones;

or if he brought to the service or ranks of his country a constitution already impaired, or rankling with the germ of maladies that afterwards do nothing more than ripen into activity ;—these will form occasions for caution, or from an entire exclusion from the bounty, when the executive duty comes to be performed in the way Congress has pointed out. A claimant who was suspected not to stand in lights altogether meritorious or innocent, must expect that his application would meet a severe scrutiny and certain rejection at the discovery of any thing that could taint it with unfairness or imposition. But if the sound construction be not at least as broad as I have supposed, we shall be at some loss to know what meaning the words “inferior disabilities,” used in the concluding sentence of the 14th section, were intended to convey.

It may, perhaps, be said, that to earn the bounty, the disability should have been incurred by accident or sickness peculiar to the employments of military men, and such as it may reasonably be supposed would have been avoided in other occupations. But it is conceived that this would prove a vague or deceptive rule of interpretation. With what safety, or with what certainty, could it be applied? The soldier asleep in garrison may suddenly, when he wakes, find his eyesight gone, without being sensible himself, or without its being imagined by others, that the predisposing and leading cause of his affliction was imbibed in ascending the Mississippi months before, whilst a hot and vertical sun was flashing its fires around him. Another may linger in a consumption; the consequence, perhaps, of a slight cold in the beginning, but of which the labors and hardships of his life may never have allowed him opportunity to get rid. And a third may lie bedridden under a palsy, which the change of habits and ailment after his enlistment may have been the chief though occult causes in producing. It would be easy to multiply indefinitely such illustrations, applicable alike to the condition of officers and men.

I would remark, as giving strength to the principles which I suppose the Legislature to have had in mind in framing this section, that we find it recorded in the Digest of Justinian, that “he who has hired his services is to receive his reward for the whole time, if it has not been his fault that the service has not been performed.” So, too, by the maritime law, it is well understood, that if sickness or disability overtake a seaman, which was not brought on by vicious or unjustifiable conduct, he is entitled to his full wages for the year. Nor does it make any difference whether it come on during the time he was on actual duty, or was merely accidental while he continued in the service. These principles have been sanctioned by time; and it is hoped that it will not have been deemed out of place to advert to the analogies they hold up.

RICHARD RUSH, *Attorney General.*

[3.]

BOUNTY LAND.—1. Every non-commissioned officer and soldier, enlisted since 10th December, 1814, entitled to 320 acres.

2. Minority does not create incapacity to take land bounty any more than bounty in money or pay.

WASHINGTON, *August 1, 1815.*

Are persons enlisted since the 10th of December, 1814, entitled to their land warrants for the additional bounty, in the same manner as those enlisted prior to that period? Are minors, regularly enlisted, entitled to their land warrants?

Answer. 1. I think that every non-commissioned officer and soldier enlisted since the 10th of December, 1814, is entitled to a bounty of 320 acres of land, provided that he obtain, on his discharge from service, a certificate from the commanding officer of his company, battalion, or regiment, that he had faithfully performed his duty whilst in service.

2. I do not think that the fact of minority creates any incapacity to take the land bounty, any more than the bounty in money or pay. The contract of the Legislature must be fulfilled in this, as in all other respects. The minor who brings himself within all the other requisites is, I think, entitled to his land warrant in like manner with persons of full age.

RICHARD RUSH, *Attorney General.*

[4.]

BOUNTY LAND.—1. Construction of the acts of January 11, 1812, and of April 16, 1816, granting bounty land. 2. Under act of 1816, optional with the guardian to elect either the bounty land or half pay for minor's benefit. 3. Congress has no right to extinguish or modify a right already vested in heirs.

WASHINGTON, *June 17, 1816.*

The 12th section of the act of Congress of January 11, 1812, gives to soldiers enlisted for five years, or during the war, a bounty of 160 acres of land; and in case of their being killed, or dying in the service, the said bounty is to go to their heirs.

The 2d section of the act of April 16, 1816, making further appropriation for military services during the war, provides, among other things, that it shall be lawful for the guardians of the children of such deceased soldier, where they are under sixteen years of age, to relinquish the bounty land aforesaid, and to receive, in lieu thereof, on behalf of the said children, one-half of the monthly pay to which the deceased person was entitled, for and during the term of five years.

Question.—Is the bounty land mentioned in the said act of January 11, 1812, to be considered, by virtue of the death of the soldier, as so far vested in the heirs as not to be capable of being divested, for the purposes specified, by the subsequent act of April, 16, 1816?

Answer.—I think not. The act of April 16, 1816, seems not so much designed to take away a vested right, as to open the door to a new privilege in favor of the minor.

Not considering that a compulsory acceptance is thrown upon the guardian, I imagine him hereby to have an option, which it is to be presumed he will exercise for the minor's benefit. Taking the act under an opposite view—that is, supposing the guardian not to have an option—I should doubt the authority of Congress to extinguish, in such a case, or even coercively to modify, a right already vested.

RICHARD RUSH.

[5.]

POWER OF ATTORNEY.—Requisite authentication of, by a Mayor, or Justice of Peace, with public seal attached.

JULY 6, 1816.

The within power of attorney is not authenticated in legal form. It should have been proved before the mayor, or other chief magistrate of Albany, with the seal of office annexed; or, if before a justice of the peace, his appointment as such should be certified by the proper authority, and under the public seal of the State.

In the present state of the instrument, I think the Commissioner would well be justified in withholding the patent, especially when the more formal regulations since adopted are considered.

RICHARD RUSH, *Attorney General*.

[6.]

PENSION TO MINORS.—Minor children under the act of 16th April, 1816, must have been under 16 years of age at the death of their father.

WASHINGTON, *December 24, 1816.*

Under the 2d section of the act of Congress of the 16th of April, 1816, entitled "An act making further provision for military services during the late war, and for other purposes," I am of opinion that the epoch of the death of the non-commissioned officer, musician, or private, of the regular army, marks the point of time at which the child or children must have been under sixteen years of age, in order to invest the guardian with the right of commuting the bounty land for the half-pay proposed as its substitute. It may be scarcely necessary to add, that, at the period of the relinquishment, the legal rights of the guardian over the estate of the minor must be in full existence.

RICHARD RUSH.

[7.]

PENSION TO INDIGENTS.—1. Proof of indigence of claimants to be communicated by District Courts, or Courts of Record of the State or Territory, to aid the Secretary of War to bring the applicant within the benefit of the law. 2. Amendment of the law recommended.

WASHINGTON, *March 26, 1818.*

1. SIR: I think it must have been the intention of Congress that the whole proof, as well of the indigence as of the service, under the new pension law, should reach you through the district judge of the United States of the district, or judge or court of record of the county, State, or Territory, in which the applicant shall reside. There is, indeed, a peculiar fitness in its being so; because those tribunals, being on the spot of the applicant's residence, would have a facility as well as certainty of information, as to the fact of his indigence, which you cannot possess, and in regard to which you would unavoidably be subject to imposition.

It is true, the language of the act is not very explicit on this subject. It would seem, on the contrary, that the functions of the district judge, &c., were confined to an inquiry into the service merely; but you will observe that the act, after directing the oath or affirmation of the applicant, provides that he shall "offer such other evidence as may be in his power." Other evidence as to what fact? It is susceptible of two constructions: First, that this other evidence is to relate solely to the same fact as to which the applicant has already sworn or affirmed—to wit, the fact of service. Second, that it is to relate to all the facts which are to bring the applicant within the benefit of the law. The first construction arises most naturally out of the context, but the last is the most reasonable and the most convenient; for I cannot conceive why the inquiry as to the indigence should be thrown exclusively on the Secretary of War, when the tribunals before mentioned have so much better opportunity, from their personal knowledge of the situation of the applicant, and of the character and credibility of his witnesses, to ascertain this fact.

2. I think you had better have the act amended before Congress rises; a very few words would do it. For example:

Section 2, line 18: after the word "evidence," insert these words: "both as to his service and the indigence of his circumstances."

Same section, line 22: after the word "enemy," add, "and that his circumstances are such as to entitle him to the benefit of this act."

WM. WIRT.

[8.]

BOUNTY LAND.—Under act of April 16, 1816, a soldier who has enlisted for five years or during the war, and serves under that enlistment until promoted to the rank of a commissioned officer, is entitled to his land bounty, although he resigns before close of war.

RICHMOND, *July 29, 1819.*

SIR: I received at this place the letter from Jeremiah N. Sterling, on which you have requested my opinion. Mr. Sterling is

an applicant for land bounty, under the 3d section of the act of the 16th of April, 1816, entitled "An act making further provisions for military services during the late war, and for other purposes." He states that he enlisted as a soldier, and served during the late war, until he was promoted to the rank of a commissioned officer, which commission he resigned *before the conclusion of the war*. And the single question presented by his case is, whether that resignation cuts him off from the bounty provided by the section of the act in question; or, in other words, whether, to entitle him to the land bounty, he was not bound to have served *under his commission until the end of the war*?

In considering the just construction of this section, it is observable that it provides for those classes of persons for whom no previous provision has been made, to wit:

1. All soldiers above the age of forty-five, or under the age of eighteen, who had been enlisted to serve for five years or during the war, and who had faithfully served during the war and had been regularly discharged.

2. The representatives of *such* soldiers as had died whilst in the service of the United States.

3. *All soldiers* who had been enlisted and had faithfully served during the war *until they had been promoted to the rank of commissioned officers*, who, if they had served during the war under their enlistment and had been regularly discharged, would have been entitled to a bounty in land. Under this third provision, the only questions in relation to Mr. Sterling are—

1st. Was his enlistment as a soldier of that character, that if he had served under it during the whole war, and been regularly discharged, he could not have been entitled to the land bounty; *i. e.* was he enlisted for five years, or during the war?

2d. Did he serve under that enlistment *until he was promoted to the rank of a commissioned officer*?

If the facts of the case answer both these questions in the affirmative, he is, in my opinion, clearly entitled to the bounty under this act. To require that he should have served *under his commission till the end of the war*, in order to entitle him, is to require what the act of Congress does not require. If Congress intended the service so to continue, they have not said so. Their words are, "all soldiers who have been enlisted and have faithfully served during the late war, *until they had been promoted to the rank of commissioned officers*." The moment the soldier is so promoted, his right attaches, and he is from that moment placed exactly on the footing of the soldier who had served during the war, and until regularly discharged. Any other construction would render the words "*until they have been promoted to the rank of commissioned officers*" utterly senseless; whereas they are obviously used, and used for the express purpose of marking the very epoch and the event on which the right to the bounty was intended to attach. This policy of the law, I presume, was to promote emulation in the ranks, and to reward the successful competitor.

[WM. WIRT.]

[9.]

BOUNTY LANDS.—1. Under act of 5th March, 1816, land warrants to Canadian volunteers not assignable. 2. Warrant obtained by fraud to be cancelled, and in such a way as to incapacitate it from circulation without rendering it illegible, and to be returned to party presenting it; his redress to be obtained in courts of justice.

OFFICE OF THE ATTORNEY GENERAL, Dec. 26, 1819.

SIR: The two questions submitted for my opinion are—

1st. Are the warrants granted for military bounty land, granted to certain Canadian volunteers under the act of 5th March, 1816, assignable or transferable?

2d. If, before a patent issues which would be predicated on a warrant of this class, it is discovered that the warrant was fraudulently obtained, is the Secretary of War authorized to annul it?

1. The warrant has nothing of a negotiable character on its face. It does not state that the volunteer *and his assigns*, or that the volunteer *or the holders of the warrant*, is entitled to the lands. It certifies only that the volunteer himself is entitled. Nor does the act under which these warrants issue make them assignable; nor does it give any authority to the Commissioner to issue a patent to the assignee or holder of the warrant. Taking the question, therefore, on this act alone, it might well be questioned whether the Commissioner could properly issue a patent to the assignee of such a warrant. But, considering this act as a part of a system of legislation on the subject, and therefore to be construed in connexion with the acts of the 6th May, 1812, and the 16th April, 1816, (both of which expressly prohibit the assignment of military warrants for land bounty, and declare the transfer of them invalid;) considering, too, that these warrants to Canadian volunteers are as completely within the policy of these prohibitions as military lands of any other description;—I hold it the safer opinion, that they cannot pass by assignment or transfer.

2. A warrant obtained by fraud is of no value to the holder, and I cannot, therefore, conceive any injury which can result from cancelling it. On the contrary, the fraud being fixed, I consider it the duty of the Secretary, both towards the Government and towards society, to disable the warrant from being used as an instrument of further mischief. But, since the evidence which fixes the fraud must, from the necessity of the case, be always *ex parte* in relation to the holder of the warrant, whose character as well as rights are staked on the correctness of the Secretary's decision, I submit as the better course to cancel the warrant in such a way as to incapacitate it for circulation, without rendering it illegible; noting on the warrant, in a few words, the cause of its cancellation, and then handing it back to the person who presented it, to seek any redress to which he may be entitled before the tribunals of his country.

WM. WIRT.

To the SECRETARY OF WAR.

[10.]

INVALID PENSIONS.—*Cadets and Corps of Engineers entitled.*—1. Under act of March 3, 1815, the Corps of Engineers was expressly authorized to be retained on the peace establishment, and it was provided that they should be entitled to the benefits of the act of 16th March, 1802, for wounds and disabilities. 2. Corps of Engineers first organized under act of 1802, which further provided that said corps constitute military academy at West Point. 3. All cadets subsequently raised were, by act of 29th April, 1812, consolidated with and made part of the original Corps of Engineers, and, like them, subject to call of President, and to rules and articles of war.

OFFICE OF THE ATTORNEY GENERAL, *April 8, 1820.*

SIR: I avail myself of the earliest hour at which prior engagements would permit it, to give you my opinion on the question, "whether cadets, who are wounded in the line of their duty, are entitled to pensions?"

1. By the 1st section of the act of the 3d of March, 1815, "fixing the military peace establishment of the United States," *the corps of engineers* was expressly authorized to be retained; and, by the 7th section of the same act, it was provided that the several corps authorized should be entitled to the same provision for wounds and disabilities, &c., as was authorized by the act of the 16th of March, 1802, entitled "An act fixing the military peace establishment of the United States."

By the letter on which your question is endorsed, it appears that the inquiry relates to the cadets at West Point. If these cadets, then, constitute a part of the corps of engineers retained on the peace establishment by the act just cited, they are, by its express enactment, entitled to the same provision for wounds and disabilities, as was authorized by the act of the 16th of March, 1802. Do those cadets constitute a part of that corps?

2. By the 26th section of the act of the 16th of March, 1802, just referred to, a separate and distinct corps of engineers was, for the first time, authorized to be raised; and it was to consist, among others, of ten cadets.

3. By the next section of the same act, it was provided that the corps of engineers, thus organized, should constitute the military academy at West Point. Thus, in its origin, these ten cadets did constitute a part of the corps of engineers. By the 3d section of the act of the 29th of April, 1812, "making provision for the corps of engineers," it was enacted that the cadets theretofore appointed in the service of the United States, as well as those who might in future be appointed, as thereafter directed, might, at the pleasure of the President, be attached to the military academy at West Point, and be subject to the established regulations thereof. By the same section it was provided that, in order to qualify them to be thus attached, they should, among other things, have engaged to *serve for five years*, unless sooner discharged; and that they should be entitled to the pay and emoluments allowed by law to cadets in the corps of engineers.

I have had the honor, on a former occasion,* to express to you

* Opinion of the 21st August, 1819, not relating to pensions.

the opinion that the legal effect of this section of the act of 1812 was to consolidate with the original corps of engineers the cadets thus authorized to be added, so that they could no longer be distinguished, in any respect, from that corps; that, like them, they were subject to be called into actual service whensoever and wheresoever it pleased the President to call them; and that, like them, they were at all times subject to the rules and articles of war. Nor have I seen any reason to change this opinion; more especially since I understand it has been approved both by the President and yourself. The cadets, thus composing a part of the corps of engineers, are embraced by every provision affecting that corps in general terms; and, consequently, are embraced by the provision of the 7th section of the act of the 3d of March, 1815, before cited. That section, as we have seen, is, that the several corps *authorized by that act* (of which the corps of engineers was one) should be entitled to the same provision for wounds and disabilities, &c., as was authorized by the act of the 16th of March, 1802. The only remaining question is, whether the act thus referred to authorizes pensions for wounds and disabilities?

It is proper to observe, that the reference thus made to the act of the 16th of March, 1802, is not made for the purpose of ascertaining *who* was entitled to the provision made for wounds and disabilities; for that was already ascertained, as we have seen, by the act of the 3d of March, 1815, itself. But the reference to the former law is made solely for the purpose of ascertaining what the provision was which was thereby made for wounds and disabilities; and, on turning to the 14th section of the former law, we find it enacted "that if any officer, non-commissioned officer, musician, or private, in the corps composing the peace establishment, shall be disabled by wounds, or otherwise, while in the line of his duty in public service, he shall be placed on the list of invalids of the United States, at such rate of pay," &c.

Thus (contrary, I confess, to my impression, on the first presentation of the question,) I find myself brought to the conclusion that the cadets attached to the military academy at West Point are entitled to the benefits of this provision for wounds and disabilities received in the line of their duty.

To the SECRETARY OF WAR.

WM. WIRT.

[11.]

INDIGENTS AND COURTS.—1. Schedule of property to be presented in open court; and court must be court in session. 2. As to what are courts of record: Courts of special jurisdiction may be courts of record: All courts of the United States are courts of special, not of general jurisdiction. The following then, are courts of record: Such as are expressly made courts of record by the law of the State which creates them: Such as have been solemnly adjudged by the tribunals of the several States to be courts of record: Such as proceed according to the course of common law, with unlimited jurisdiction, as to amount, keeping a record of proceedings: Such as have power of fine and imprisonment. Court itself may note that it is a court of record, and this may be required by regulations. 3. Amount of schedule to be the test of the indigence of applicant.

OFFICE OF THE ATTORNEY GENERAL, *May 9, 1820.*

SIR: I have now the honor to answer, in their order, the three questions submitted for my opinion yesterday, on the act of Congress of the 1st instant, supplementary to the act of the 18th March, 1818, providing for certain persons who served in the land and naval service of the United States, in the revolutionary war.

1st. Whether the whole of the form prescribed in the 1st section, to verify the amount of property of the applicant, except the oath of the party and the certificate of the clerk, must not be done in open court?

Answer.—That section requires the party to present in open court the schedule of all his property, subscribed by himself, and accompanied by the affidavit, the form of which is given by the section. This affidavit must be annexed to the schedule, and must either have been previously sworn to before some judge of the court, or must be sworn to in open court, when the schedules to which it is annexed shall be presented. The court, to which the schedule is thus presented, affix a value to the property: all this is to be done in open court, and made matter of record; for by the term *court*, used in the section, is meant the court *in session*. I answer the first question, therefore in the affirmative.

2d. Whether by “court of record,” mentioned in the 1st section, is included courts of special jurisdiction—such, for example, as a court of ordinary, even when it is a court of record, as it has been decided to be in some of the States?

Answer.—Courts of special jurisdiction may, nevertheless, be courts of record. All the courts of the United States are courts of special, not of general jurisdiction; yet they are courts of record. The phrase “court of record” is borrowed from the English law, and it is proper to look to that law for its meaning. According to the English law, those only are courts of record which proceed according to the course of common law; which have jurisdiction in all actions, real, personal, and mixed, above the value of forty shillings; which have the power to fine and imprison; and which enroll or record their proceedings in perpetual testimony thereof. According to that law, the mere fact of keeping a registry of its proceedings is not enough to make a court a court of record. For the court of admiralty and the ecclesiastical courts do this: yet are they not courts of record, in England; because they do not proceed according to the course of the common law, but according to the course of the civil and canon law. The “court of ordinary” mentioned in the question, is, I presume, the prerogative court of England, whose function it is to grant probate of wills and letters of administration; this is one species of ecclesiastical courts, and, in England, is not a court of record, for the reason just mentioned—that it proceeds by the civil and canon law, not by the common law.

It is further to be remarked, that in England the erection of a new tribunal, with a power to fine and imprison, is, of itself, sufficient to constitute the new tribunal a court of record. With

this view of the English law on the subject, it is proper to state that, in my opinion, all are courts of record, within the contemplation of the act of Congress:

1. Which are expressly made courts of record by the law of the State which creates them;

2. Which have been solemnly adjudged by the tribunals of the several States to be courts of record;

3. Which proceed according to the course of the common law, with a jurisdiction unlimited in point of amount, keeping a record of their proceedings;

4. Which have the power of fine and imprisonment.

And courts which proceed according to the course of the civil and canon law, having neither of those attributes, are not courts of record, although they may keep a registry of their proceedings and possess a seal.

The great multitude and variety of courts which exist in the different States, and the very loose and incorrect notions which are afloat as to what it is that constitutes that technical being, "a court of record," will render it difficult for you to apply these principles to every case that may be brought before you from every part of the Union. You have a right, however, to be satisfied—and, indeed, you are required by the law to be satisfied—that the court whose certificate is offered, is a court of record. This proof can be easily supplied by the minutes of the court, in every instance; it may, on the face of the proceedings, state itself to be a court of record; state why it is such; for example, "being a court of record, expressly so declared by the statute of the State which created it," or "expressly so adjudged by the tribunals of the State," or "having the power of fine and imprisonment," &c. This may be required by the regulations which you will publish under the act; and it is, fortunately, a requisition with which a compliance is very easy.

3d. Whether the words of the 3d section, "in such indigent circumstances as to be unable to support himself without the assistance of his country," do not comprehend those only who are incapable, without the aid of the Government, of supporting themselves, except by private or public charity?

Answer.—I think that it was the intention of Congress to make the amount of the schedule the test of the indigence of the applicant; and that, consequently, the relief given by the former act is to be continued in every case in which the schedule shall exhibit proof of such indigence, that the income of the property is inadequate to the support of the applicant.

I have the honor to be, sir, very respectfully, your obedient servant,

WM. WIRT.

To the SECRETARY OF WAR.

[12.]

LAND BOUNTY.—The representatives of Jacob Meyers, under acts of 6th February, 1812, and 29th January, 1813, entitled.

OFFICE OF THE ATTORNEY GENERAL, *June 21, 1820.*

SIR: I have collated with care all the acts of Congress which affect the case of Jacob Meyers, a volunteer who died in the service of the United States on the 3d March, 1813, and am of the opinion that his representatives are entitled to the bounty given by the act of the 6th of February, 1812, and reassured by the act of the 29th January, 1813—the right of the volunteer to this bounty becoming vested by his death on the 3d March, following; but that the act of the 16th of April, 1816, does not bear on his case; and that, consequently, they are not also entitled to the half-pay. In conformity with your suggestion, I give you the result merely of this examination, without the process of reasoning by which I have been conducted to it.

I have the honor to be, sir, very respectfully, your obedient servant,

WM. WIRT.

To the SECRETARY OF WAR.

[13.]

PRIZE MONEY.—Heirs of Isaac Hardy, killed in the victory of Lake Erie, entitled to his proportion of the purchase of the captured fleet, as prize money.

OFFICE OF THE ATTORNEY GENERAL, *October 17, 1820.*

SIR: The following case has been stated from the Navy Department for my opinion. Isaac Hardy, a seaman in the navy of the United States, was killed in the victory of Lake Erie, in September, 1813. He left a wife, who has administered on his estate at Philadelphia, where the deceased resided in his lifetime; he left no heirs or other known kindred, or representative, except his wife. She has applied for his share of the prize-money; and the question is, whether she be entitled.

By the 48th article of the rules and regulations for the government of the navy of the United States, passed the 23d April, 1800, it is provided that “the proceeds of all ships and vessels, and the goods taken on board of them, which shall be adjudged good prize, when of equal or superior force to the vessel or vessels making the capture, be the sole property of the captors; and when of inferior force, shall be divided equally between the United States and the officers and men making the capture.

The next article, in making the distribution of the prize-money, assigns “to seamen, mariners, and all other persons doing duty on board, seven-twentieths.” By the practical construction of this act at the Navy Department, I learn that persons doing duty on board, and killed in the action, come into the distribution, and have a fair claim for their proportion of the prize-money to their legal representatives or heirs.

When, then, the fleet captured on Lake Erie was condemned

a prize of war, there was a vested right in the legal representatives or heirs of Isaac Hardy for his proportion of seven-twentieths of the prize-money; and it could not have been withheld from his *administratrix, his legal representative*.

But, on the 18th April, 1814, Congress passed an act authorizing the President to purchase the captured fleet at the price of \$255,000; which sum it directed to be distributed as prize-money between the captors and *their heirs*.

In my opinion, Congress intended nothing more by this act than to substitute the \$255,000 in lieu of the proceeds of the sale of the prize-vessels, had they been sold under the decree of court, without the most distant intention of affecting in any manner the mode of distribution, either as to the *quantum* or the persons authorized to take; indeed they could not, if they had intended it, have produced such an effect, because that would have been to divest a vested right. Inasmuch, therefore, as Diana, the widow and administratrix of Isaac Hardy, would have been authorized to take his distributive share of the proceeds of sales, had the prizes been sold under a decree of court; so, in like manner, will she be authorized to take his distributive share of the proceeds of the sale to the President, which are merely substituted in the place of the former.

Even in the character of *heir*, under the existing laws of Pennsylvania, she is the only person who is authorized to take. But my opinion is, that her receipt as administratrix will be a sufficient discharge for the prize-agent; though he may, from abundant caution, require her to superadd the description of "sole heir."

WM. WIRT.

To the SECRETARY OF THE NAVY.

[14.]

PENSION TO AIDS-DE-CAMP.—The act of 11th January, 1812, in fixing the rate of allowance for pensions, looks only to commissioned and non-commissioned officers, musicians and privates; an aid-de-camp, therefore, *cannot* receive a pension according to his pay as aid-de-camp, but according to the commission he actually held.

OFFICE OF THE ATTORNEY GENERAL, December 5, 1820.

SIR: The 14th section of the act of Congress of the 11th January, 1812, "to raise an additional military force," appears to me to look only to commissioned and non-commissioned officers, musicians, and privates, in fixing the rate of allowance for pensions. There is no rate of pension there given to aids-de-camp, who, you inform me, are not commissioned as such, and therefore do not come within either of the denominations given by the act. The case of Captain White, therefore, is a *casus omissus*, so far as his claim for a pension, graduated by his pay as aid-de-camp, goes. It would be an unwarrantable enlargement of the express terms of the act to extend it to such a case. It would be legislation, not construction; since it would be a substantive and distinct enactment providing for a new class of cases not contem-

plated by the act. The spirit of the section can leave no doubt that, if the case had occurred to Congress, they would have provided for it by adapting the pension to the pay of the aid-de-camp. Congress may, and most probably would, by a special law for the particular case, order a pension adjusted by the scale of the pay. But as the law now stands, I do not see that you can, with propriety, do more than to allow a pension regulated by the pay belonging to his commission as captain.

I have the honor to be, sir, very respectfully, your obedient servant,

WM. WIRT.

To the SECRETARY OF WAR.

[15.]

BOUNTY LAND.—Canadian volunteers may locate land warrants by attorney, and patent may issue in name of volunteer.

ATTORNEY GENERAL'S OFFICE, *December 29, 1820.*

SIR: In reference to the question propounded to me from your department on the 26th, I can see no reason why Canadian volunteers should be excluded from the common privilege of acting by attorney in locating land warrants, nor why patents should not issue on such locations *in the name of the volunteer*. The opinion which I gave to the Secretary of War on the 26th December, 1819, related merely to the assignable quality of those warrants, and had nothing to do with the right of the volunteer to act by attorney in fact, properly constituted as such. The course you propose, therefore, is, in my opinion, perfectly proper.

WM. WIRT.

To the SECRETARY OF THE TREASURY.

[16.]

NAVY INVALID PENSIONERS.—Act of March 3, 1819, applies to *all pensioners*; navy pensioners not excepted.

OFFICE OF THE ATTORNEY GENERAL, *January 23, 1821.*

SIR: The act of Congress of the 3d March, 1819, entitled "An act regulating the payments to invalid pensioners," being universal in its language, applying to "*all cases* of application for the payment of pensions to invalids under the several laws of Congress granting pensions to invalids;" and the policy of the provision of the act also applying to all cases equally, I can discern no reason for excepting navy pensioners from its operation; and am, therefore, of opinion that they are not excepted.

WM. WIRT.

To the SECRETARY OF THE NAVY.

[17.]

PENSIONERS STRICKEN FROM THE ROLLS.—No authority in Secretary of War to restore to rolls pensioners who have been stricken off under acts of 1st May, 1820, and 18th May, 1818.

OFFICE OF THE ATTORNEY GENERAL, *February 19, 1821.*

SIR: The act of the 1st of May, 1820, in addition to the pension law of the 18th of March, 1818, makes it the duty of the Secretary of War to strike from the list of pensioners the name of every person who, according to the evidence of the schedule required by the act, ought not, in his opinion, to remain on it.

I am asked whether he has any power to restore, on subsequent and different evidence the name of any person who may have been stricken off, on the evidence, of the schedule? To which I answer, that he has not; because the law, which is the only warrant of authority to him, gives him no such power. If it be desirable that he should possess it, Congress must confer it; or he cannot, with any propriety, assume its exercise.

To the SECRETARY OF WAR.

W. W.

[18.]

NAVY PENSION FUND.—1. As to the powers and jurisdiction of commissioners of "Navy Pension Fund. 2. Disability incurred in attempt to escape from captivity is service in "line of duty."

OFFICE OF THE ATTORNEY GENERAL, *April 17, 1821.*

SIR: The case stated by you, for my opinion, is as follows:

"One of our seamen, captured by the Tripolitans in 1803, on board the frigate Philadelphia, after fifteen months' rigorous captivity, made an attempt, with five of his messmates, to recover liberty and rejoin the American squadron then outside the harbor of Tripoli. The attempt proved abortive; he, and his companions in his suffering, were retaken, brought back, and punished by bastinado in the most cruel manner, the effects of which were so severe as to render one of the party ever afterwards incapable of performing duty as a seamen. This disabled seamen now applies for a pension:"—and you request my opinion "whether he be, under the circumstances of the case as stated, and by the act of Congress on the subject, entitled to relief from the navy pension fund?"

The act of Congress of the 23d April, 1800, which creates this fund, provides, "that every seamen or marine, *disabled in the line of his duty*, shall be entitled to receive, for life, or during his disability, a pension from the United States, according to the nature and degree of his disability, not exceeding one-half of his monthly pay."

By the same act, the navy pension fund is constituted "forever a fund, for the payment of pensions and half pay, should the same be hereafter granted to the officers and seamen who may

be entitled to receive the same; and if the fund shall be insufficient for the purpose, the public faith is hereby pledged to make up the deficiency; but if it should be more than sufficient, *the surplus shall be applied to the making of further provision for the comfort of the disabled officers, seamen, and marines, and for such as, though not disabled, may merit by their bravery, or long and faithful services, the gratitude of their country.*

The navy fund, thus devoted to these broad and liberal purposes, was, by the same act, placed "under the management and direction of the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, for the time being;" who were thereby authorized to receive the moneys appropriated to that fund, "and to employ and invest the same, and the interest arising therefrom, *in any manner which a majority of them may deem most advantageous.*" By a subsequent act (that of the 26th March, 1804) it was provided, "that the commissioners of the navy pension fund be, and are hereby, authorized and directed to make such regulations as may to them appear expedient, *for the admission of persons on the roll of navy pensioners, and for the payment of the pensions.*"

The authority thus given to the commissioners has not, so far as I can discover, been taken away or abridged by any subsequent act. The question, therefore, whether the seamen, in this case, be entitled to the pension which he asks, belongs exclusively to them.

Subject to this paramount authority, I have no hesitation in expressing the opinion, that the case of the seaman now under consideration is not only within the spirit and reason of the act of the 23d April, 1800, but, by a fair and liberal construction, within its letter too. He was, I think, as much within *the line of his duty* when the disability occurred, as if he had been disabled in the original capture of the Philadelphia, or in a recent attempt, immediately thereafter, to escape from captivity and return to his duty. A different construction would, I think, be too narrow; would be inconsistent with the policy, as well as the liberality of the provisions; and wholly incompatible with the more expanded purposes to which this fund is expressly devoted.

I have the honor to be, sir, very respectfully, your obedient servant.

To the SECRETARY OF THE NAVY.

WM. WIRT.

[19.]

NAVAL INVALIDS.—The mere certificate of navy surgeon not sufficient under the act of 3d March, 1819: Affidavit required.

OFFICE OF THE ATTORNEY GENERAL, *January 17, 1822.*

SIR: The act of Congress of the 3d March, 1819, "regulating the payments to invalid pensioners," requires "*the affidavits of two*

surgeons or physicians, whose credibility as such shall be certified by the magistrate before whom the affidavit is made, stating the continuance of the disability," &c. I am of the opinion that it would be irregular in your department to accept the mere *certificate* even of a navy surgeon, in lieu of the *affidavit* so expressly required by the law; and although the circumstance of their being *surgeons in the navy* might seem to dispense with the necessity of a certificate of their credibility, yet, as the law has also expressly required *that*, and as the surgeons will have to go before a magistrate to make their affidavit, there will be but little additional trouble in satisfying the requisition of the law in both particulars; which had therefore better be done.

To the SECRETARY OF THE NAVY.

WM. WIRT.

[20.]

COL. JOHNSON'S PENSION.—Invalid pensions, in all cases, to commence from the time of completing the testimony, according to act 15th May, 1820.

ATTORNEY GENERAL'S OFFICE, July 2, 1822.

SIR: On the subject of Colonel Johnson's pension, I cannot see how it can be withdrawn from the sweeping provision of the second section of the act of 15th May, 1820, which directs that all pensions in virtue of any law of the United States shall be considered to commence at the time of completing the testimony. This provision is so direct, and so universal, that the ground on which your doubts are founded is not discerned; and I should be glad to confer with you on the subject before you act on this opinion.

WM. WIRT.

ATTORNEY GENERAL'S OFFICE, July 19, 1822.

SIR: I now understand that the doubt with regard to Colonel Richard M. Johnson's claim of pension relates to the time of its commencement. The second section of the act of 15th May, 1820, declares "that the right any person now has, or may hereafter acquire, to receive a pension in virtue of any law of the United States, be considered to commence at the time of completing his testimony, pursuant to the act hereby revived and continued in force." The affidavits which prove Colonel Johnson's title to a pension were taken before Job Stevenson, a justice of the peace of Scott county, in the State of Kentucky, on the 1st day of August, 1816; but it was not until the 5th of November, 1820, that the certificate of the clerk of Scott county that Job Stevenson was a magistrate, was obtained and annexed to those affidavits. The question is—When was this evidence complete: on the 1st of August, 1816, when the affidavits were taken; or on the 5th of November, 1820, when the certificate of the clerk was added?

In the short personal conference which we had on this subject,

the predisposition, which it is almost impossible to avoid feeling in favor of so meritorious a claim, led me to take the earlier date in favor of the claimant; but, on reflection, I must recede from this opinion, and abide by those old and plain rules with which we are all familiar, and from which it is always unsafe to depart. The word *complete* is a strong one; nothing is complete while any thing of form or substance is wanting. Testimony is never complete until it comes in such a shape that its admissibility is unquestionable. If it be inadmissible in the form in which it is presented,—if it want any thing of authentication to render it admissible,—it is incomplete; and never is it complete until every objection to its reception is removed.

Would Colonel Johnson's evidence have been received at the department, without the certificate of the clerk that Job Stevenson was a justice of the peace of Scott county? If it would not, it is not complete; and such I understand is the fact, according to the rules of evidence in these cases adopted by the department. I also understand that, according to these rules, this certificate of the clerk removed all objection to the testimony; hence, I am constrained to conclude that the testimony was not complete until this certificate was procured—to wit, 5th November, 1820. My regret, however, is diminished by the consideration that there can be no moral doubt that Congress would, on application, carry back the pension to the time of the wounds; which will be better for the petitioner than to assume the earliest date which these laws could, by any possible construction, permit.

To the SECRETARY OF WAR,

WM. WIRT.

[21.]

THE REVOLUTIONARY WAR.—The war of the revolution did not terminate until April, 1783, upon the ratification of the treaty of peace, which determines revolutionary pensions and prize questions thereon depending.

OFFICE OF THE ATTORNEY GENERAL, *February 12, 1825.*

SIR: By the act of the 18th March, 1818, it is declared that every commissioned officer, private, &c., who served in the war of the Revolution until the end thereof, or for the term of nine months or longer, at any period of the war, shall receive a pension during life. The question which you propound for my opinion is, when the war of the Revolution terminated within the contemplation of this act—"whether at the period of the actual cessation of hostilities in November, 1782, when the preliminaries of peace were agreed on; or whether at the period of the ratification of the treaty of peace, in April, 1783?"

I apprehend that there must be an error in the statement of the first question: that is, in assuming the date of the preliminary articles as the period of the actual cessation of hostilities. Those articles themselves, in their title, provide that the treaty, into which they are to be introduced, is not to take effect until

terms of peace shall be agreed on between Great Britain and France, and his Britannic Majesty shall be ready to conclude such treaty accordingly. The 7th provisional article stipulates "that there shall be a firm and perpetual peace between his Britannic Majesty and the States, and between the subjects of the one and the citizens of the other; wherefore all hostilities, both by sea and land, shall *then* immediately cease." When? When the terms of a peace shall be agreed on between Great Britain and France, and his Britannic Majesty shall be ready to conclude such treaty accordingly. On the 20th of January, 1783, the preliminary articles of peace between France and Great Britain were signed; by the 1st article of which it is provided, that as soon as the preliminaries are signed *and ratified*, sincere friendship shall be re-established between his Most Christian Majesty and his Britannic Majesty, their kingdoms, &c. The 2d article provides what prizes taken in what parts of the world, respectively, within given times after the exchange of ratifications, shall be restored.

On the same day (20th January, 1783) an armistice declaring a cessation of hostilities between the United States and Great Britain, was signed at Versailles. There had been no cessation thereof previously; and this instrument places the cessation on the same footing as the preliminary articles between Great Britain and France: that is to say, provides that the United States shall be included in the stipulation between the two Crowns and Great Britain and Spain; and "that they shall enjoy the benefit of the cessation of hostilities at the same epoch and in the same manner." Again: the articles signed on the 30th November do not, upon their face, import *present* peace—they are *provisional* merely, *preparatory to a peace*. These articles, too, were yet to be submitted to Congress for *ratification*; and they were not ratified until April, 1783.

Upon the whole, I am of the opinion that war existed until the treaty of peace was ratified; or, in other words, that the war of the revolution did not terminate till April, 1783.

I remain, sir, very respectfully, your obedient servant.

To the SECRETARY OF WAR.

WM. WIRT.

[22.]

NAVY AND PRIVATEER PENSIONS TO WIDOWS AND ORPHANS.—1. The widows and orphans of officers of the navy and of marines, also the widows and children of seamen and marines, who, between the 18th June, 1812, and 22d January, 1825, *perished* on board of a public armed vessel of the United States, or who were *lost* on board of prize vessels to which they had been transferred, or were *drowned* by the upsetting of a boat dispatched on duty from a public armed vessel, are entitled to pension according to the acts referred to, to be paid out of the navy pension fund. 2. The same opinion as to the claims of widows and orphans of officers and seamen, who, between the same periods, *perished* on board of private armed vessels of the United States, or who were *lost* on board of prize vessels to which they had been transferred, or were *drowned* by the upsetting of a boat dispatched on duty from a private armed vessel, to be paid out of the privateer pension fund.

OFFICE OF THE ATTORNEY GENERAL, *March 31, 1825.*

SIR : The questions which you propound for my opinion on the subject of pensions are these :

1st. When a public or private armed vessel has foundered, or been lost at sea, since the 18th day of June, 1812, and previously to the passage of the act of the 22d January last, (as were the *Wasp*, *Epervier*, *Lynx*, and others,) are the widows and children of those who perished on board entitled to pensions ?

2d. In the case of prize-vessels having foundered or been lost at sea, during the above period, having crews transferred from a public or private armed vessel, are the widows and children of those lost in the prize-vessels entitled to pensions ?

3d. If a boat had been dispatched, within the above period, on any duty, from a public or private armed vessel, and had been upset, and those on board drowned, would the widows and children of those so lost be entitled to pensions ?

I will consider these questions—

I. With regard to public armed vessels ;

II. With regard to private armed vessels.

I. With regard to public armed vessels.—The act of the 20th January, 1813, “providing navy pensions in certain cases,” enacts, “that if any officer of the navy or marines *shall be killed or die, by reason of a wound received in the line of his duty*, leaving a widow, or if no widow, a child or children, under sixteen years of age, such widow, or if no widow, such child or children, shall be entitled to receive half the monthly pay, &c. I have given the punctuation of this act as it stands printed in the 4th volume of the Laws of the United States, page 486 ; according to which punctuation, the construction of the law would seem to be, that, if any officer of the navy or marines should, 1st, be killed by reason of a wound received in the line of his duty, or, 2d, die by reason of a wound received in the line of his duty, his widow and children should have the provision made by the act. According to this construction, the only difference between the two cases consists in the officer’s being killed immediately, upon the spot, or dying some time afterwards, in consequence of the wound. But, in both cases, the death is to be produced by a wound ;—by a wound received how ? The act answers, *in the line of his duty*. Does this mean a wound in battle, and does it mean such wound *only* ? The act does not say so, unless he can be considered in the line of his duty *only* while he is engaged in battle. But *the line of his duty* is much more extensive and diversified. It extends to all the operations of the ship, whether civil or military ; and takes in the whole of her navigation during the entire cruise. The officer who is killed, or dies by reason of a wound received by the falling of a spar in a tempest, is as entirely within the description of being killed, or dying by reason of a wound received *in the line of his duty*, as the officer who is killed or dies by a wound in battle. But the punctuation is, in my opinion, erroneous, and throws a false construction upon the

act. It should, I think, be thus: "If any officer of the navy or marines shall be killed, or die by reason of a wound received, in the line of his duty," &c.—that is, if any officer shall, 1st, be killed in the line of his duty; or, 2d, die by reason of a wound received in the line of his duty—so as to embrace the case of all officers who are killed in the line of their duty, whether killed in battle or in storm, by wounds or drowning, or any other cause growing out of their duty, and inflicting death. Now, according to this construction, the widows and children of all *officers* who have perished by either of the causes set forth in the above three questions, would be entitled to the provisions prescribed by that act, because those questions do, one and all, put the case of persons killed in the line of their duty; unless it can be said, with truth, that a man who is drowned is not killed. If this act were to be considered in itself, and it were important, for the benefit of the widows and children of the officers of the navy, to insist upon this construction which I have indicated, I should have no hesitation in doing so; more especially when it is considered that the humane and liberal policy in which these acts originated justifies and demands a liberal interpretation of them. The next act upon the subject is that of the 4th March, 1814, "giving pensions to the widows and orphans of persons slain in the public and *private armed vessels* of the United States." The first section relates to *private armed vessels*, and embraces the case of *officers*, seamen, and marines, who shall die, or shall have died, since the 18th day of June, 1812. The second section, which alone relates to the navy, or public armed ships, is curiously constructed, and is in these words: "That if any seaman or marine belonging to the navy of the United States *shall* die; or, if any *officer, seaman, or marine*, shall have died since the 18th day of June, 1812, *by reason of a wound received in the line of his duty, leaving a widow*," &c. So that this act makes no provision for the case of *officers who should be slain thereafter*: the whole provision for the future being confined to the case of seamen and marines; while, with regard to the *past*, (back to the 18th day of June, 1812,) it provides for the case of *officers, seamen, and marines*, who had been *slain in the public vessels of the United States*, (according to the language of the title,) or who had died by reason of wounds received in the line of their duty. With regard to seamen and marines, this is the first act which provides for their widows and children; and the provision is clearly confined to the widows and children of such as had been, or should be, *slain in the public armed vessels of the United States*; or, according to the language of the enactment, such as had *died, or should die, by reason of wounds received in the line of their duty*;—language too precisely fixed by usage to embrace the cases put in the questions, of persons who had been *drowned*. By this law, therefore, no provision is made for the widows and children of seamen or marines who had been, or should be, drowned in the line of their duty. With regard to officers, I do not consider this act as altering their con-

dition under the act of the 20th January, 1813, except so far as it looks back before that act, up to the 18th June, 1812. For the act of the 20th January, 1813, was entirely prospective, and consequently made no provision for the case of officers who had been killed theretofore since the day of the declaration of war, (the 18th June, 1812.) This omission is supplied by the act of the 4th March, 1814, so far as relates to officers who had died in that interval of wounds received in the line of their duty, but does not embrace the case of those who had been *drowned* in that interval. But after the 20th January, 1813, the act of that date took effect in behalf of the widows and children of officers who had either been *killed in the line of their duty, or had died of wounds received in the line of their duty*. This act is not repealed by the act of the 4th March, 1814, either expressly or impliedly; for there is no express repeal, and no incompatibility between the provisions of the two acts—the act of the 4th March, 1814, only repealing one of the provisions of the act of the 20th January, 1813, leaving the other cases provided for by that act untouched; and the act of the 4th March, 1814, dealing only with the past cases of officers, and making no provision for future cases, but leaving the future to stand solely upon the provisions of the act of the 20th January, 1813. But whatever doubt may have existed as to the construction of the antecedent acts, seems to have been removed by the act of the 3d March, 1817, passed for the express purpose of amending and explaining the act of the 4th March, 1814, as its title declares; and produced, no doubt, by the case of the *Epervier*,—the recent knowledge of whose loss had awakened a strong feeling of sympathy in the community, as is evinced by the act of the same date, for the temporary relief of the widows and children of those who had been lost in that vessel.

The act now under consideration provides that if any officer, seaman, or marine, belonging to the navy of the United States, *shall die, or shall have died, since the 18th day of June, 1812, in consequence of disease contracted, or of casualties or injuries received, while in the line of his duty*, and which shall be satisfactorily proved to the commissioners of the navy pension fund, leaving a widow, &c.

The cases put in the three questions appear to me to be clearly and completely covered by this law, so far as officers, seamen, or marines, belonging to the navy of the United States, are concerned; for those are all cases of persons *who had died while in the line of their duty*, and who had died *in consequence of casualty* which had occurred while in the line of their duty.

If any doubt could fairly arise as to the intention of the Legislature in the use of language so broad and general as this, it would seem to be removed by subsequent laws, where a different phraseology is adopted to express the understanding of Congress as to the effect of this law, and to continue this effect.

Thus the act of the 3d March, 1819, is entitled "An act extend-

ing the term of half pensions to the widows and children of certain officers, seamen, and marines, *who died in the public service.*" And the 1st section provides, that "in all cases where provision has been made by law for five years' half pay to the widows and children of officers *who were killed in battle, or died of wounds received in battle, or who had died in the naval service of the United States during the late war*, the said provisions shall be continued," &c.

So, also, the act of the 22d January, 1824, is entitled "An act further extending the term of half pay pensions to the widows and children of officers, seamen, and marines, *who died in the public service.*"

And the 1st section provides, "that in all cases where provision has been made by law for five years' half pay to the widows and children of officers, seamen, and marines *who were killed in battle, or who died in the naval service of the United States during the late war,*" &c.

This general language—"who died in the public service" and "*who died in the naval service of the United States*"—more especially when taken in connexion with the other classifications contained in the act of the 3d March, 1819, can have no application to any antecedent act, except the 3d March, 1817, and may well be considered as a legislative exposition of that act: in which light it seems to me to place beyond controversy death from any species of casualty occurring in the line of their duty; and thus to present an affirmative answer to all three questions submitted for my opinion.

These questions are confined to the period between the 18th June, 1812, and the 22d January, 1824, the date of the last mentioned act; which whole period is filled up by the operation of the act of 3d March, 1817: that act operating retrospectively as well as prospectively. And although it is repealed by the 2d section of the act of 22d January, 1824, yet there is a saving of all pensions granted, and all rights which had accrued under it.

Let us now consider these questions.

II. With regard to private armed vessels.

The act of the 26th June, 1812, "concerning letters of marque and prize goods," sets apart (by the 17th section) two per cent. on the net amount of prize money made by privateers "as a fund for the support and maintenance of the widows and orphans of such persons as may be wounded and disabled on board of the private armed vessels of the United States *in any engagement with the enemy*, to be assigned and distributed in such manner as shall hereafter by law be provided."

The next act which takes up the subject of such widows and children is that of the 4th March, 1814, entitled "An act giving pensions to the widows and orphans of persons *slain* in the public and private armed vessels of the United States."

The 1st section of which act is confined to the cases of officers, seamen, and marines, serving on board any private armed vessel

bearing a commission of letter of marque, who "shall die, or shall have died, since the 18th day of June, 1812, by reason of a wound received in the line of his duty;" terms too precise and narrow, as already remarked, to cover the cases presented in the questions under consideration.

Then comes the act of the 3d March, 1817, which is entitled "An act to amend and explain an act giving pensions to the orphans and widows of persons in the public or private armed vessels of the United States;" but the provisions of which are confined to "*the officers, seamen, and marines, belonging to the navy of the United States.*"

Congress, apparently aware that this language did not, strictly speaking, reach the case of private armed vessels, passed another act, in the following session (16th April, 1818,) entitled "An act in addition to an act giving pensions to the orphans and widows of persons slain in the public and private armed vessels of the United States." By the 2d section of this law, it is enacted, "that if any officer, seaman, or marine, *shall have died* since the 18th day of June, 1812, *in consequence of an accident or casualty which occurred while in the line of his duty on board any private armed vessel*, leaving a widow," &c.

It is by this law that the several questions submitted to me are to be answered, so far as concerns private armed vessels.

The case put by the first question is that of a private armed vessel foundered or lost at sea. And in this case it would seem to me that the officers, seamen, and marines who are lost in her, are clearly within every description of the act; *for they are persons who have died in consequence of an accident or casualty which occurred while in the line of their duty on board a private armed vessel.*

The case put by the second question is that of a prize-vessel ordered in for adjudication, but foundered or lost on her voyage in, with the prize-crew on board of her; and

The case put by the third question is that of a boat of a private armed vessel ordered on duty, but upset and lost, with the hands on board of her.

There can be no doubt that, in both these cases, the officers, seamen, and marines on board *have died in consequence of a casualty or accident which occurred while in the line of their duty*; the only doubt which, I presume, can possibly occur in either of these cases, must arise from the expression of the law—"on board a private armed vessel." But, to construe the law in the narrow way implied by this doubt, would be to sacrifice its spirit to a very narrow interpretation of its letter, and to give it an operation extremely partial and unjust to those who were equally the objects of legislative favor. According to this construction, if a mast should fall and kill one man on the deck of the privateer, and, by breaking over the gunwale of the vessel, kill two others in her boat alongside of her, the wife and children of the first would be within the benefit of the law; while those of the last

would not, though they were all equally in the line of their duty, and were killed by the same accident.

It cannot possibly have been the intention of the law to create a difference so flagrantly unjust and revolting. If it was the policy of the law to stimulate seamen to the fearless encounter of all the perils attendant on that line of life, the same reason existed as strongly to apply the stimulus to those in either of the predicaments described by the questions, as to those who should remain on the deck of the privateer; since, I presume, there can be no doubt that the crew sent home in charge of a prize-ship, and the men sent to do duty in all weathers and all situations, in the boats of the privateer, are as much exposed to casualties and accidents, whether of war or of the seas, as those who remain with the privateer. But the hypothetic opinion which I am opposing is not warranted even by the language of the law, but is founded on a misapprehension of it. That language is not "if any officer, &c., shall have died on board any private armed vessel," &c.; nor is it "if any officer, &c., shall have died in consequence of any casualty or accident which occurred while on board any private armed vessel," &c. Had this been the language, there would have been some *color* for supposing that the person must die on board the privateer, or in consequence of some accident happening to him while he was personally on board of her, in order to entitle his wife and children to the provisions of the act. But the language is, "if any officer, &c., shall have died in consequence of an accident or casualty which occurred *while in the line of his duty on board a private armed vessel*," so that the board of a private armed vessel is referred to for the purpose of giving the measure of the line of his duty. Now, the duty of every man on board a private armed vessel is to obey the orders of his commanding officer; it is his duty on board of such vessel to follow out those orders to whatsoever distance they may carry him from such vessel; and to whatsoever distance he may be carried in the execution of such orders, he is still in the *line of his duty on board of the privateer*—in the line of his duty as an *officer, seaman, or marine* on board of *such vessel*; that is, *attached to such vessel—belonging to such vessel*; which is the whole meaning of the law.

The British prize acts use the same form of expression: "Be it enacted by the King's most excellent Majesty, &c., that the flag-officers, commanders, and other officers, seamen, marines, and soldiers, *on board every ship and vessel of war in his Majesty's navy*, shall have the sole interest and property of and in all and every ship, vessel, goods, and merchandise which *they have taken*, &c., or shall hereafter take, during the continuance of hostilities," &c. Now, according to the strict literal construction of these words, none would have a right to participate in these prizes but those who were on board of the capturing vessel at the time of the capture. But what has been the judicial exposition of these acts? It has been decided that, not only those on board the capturing

vessel, but those on board *another vessel of war*, which was in *sight at the commencement of the chase*, though perhaps not so at the time of capture, are entitled to share in the prize; even vessels *out of sight* have, in various cases, been admitted to such participation. So those who were not on board the capturing vessel, but were in her tenders and boats, at the time of the capture; and those also who were at a distance, escorting a former prize into port, are still permitted to share in all prizes made by such ship-of-war, as those on board the ship share in all prizes made by her boats, and made by prize-ships *in transitu* to the port of adjudication.

Upon the whole, I have no difficulty in answering the three questions propounded to me in the affirmative, in relation both to the public and private armed vessels of the United States.

I have the honor to remain, sir, very respectfully, your obedient servant,

To the SECRETARY OF THE NAVY.

WM. WIRT.

[23.]

PRIVATEER PENSIONS.—The widow of an officer, or seamen, &c., serving on board of a private armed vessel, who shall have died of wounds received in the line of his duty, shall be entitled to a pension for the term of five years, at the rate of half the monthly pay to which the rank of the deceased entitled him to; and if such widow should not have claimed or received such pension for the term of the first five years, or for any number of continuations of such periods of five years, she shall be entitled to receive the arrearages for each term of five years, only to cease at her death or intermarriage, but to enure to herself and husband *after* her intermarriage, or to her legal representatives *after* her death

OFFICE OF THE ATTORNEY GENERAL, June 9, 1825.

SIR: The case and question submitted for my opinion are the following: "During the late war a person lost his life on board a private armed vessel, while acting in the line of his duty, leaving a widow, and children under the age of sixteen years. By the acts of Congress on the subject of pensions, the widow was entitled to a monthly allowance from the privateer pension fund. She omitted, however, preferring any claim for several years; but now, having intermarried, she has applied for the pension on behalf of the children, some of whom are yet under the age of sixteen years, and also for the portion of pension to which she was entitled during her widowhood.

"*Question.*—Is the applicant, having ceased to be the widow, legally entitled to receive a pension for the interval between the death of her former husband and her second marriage?"

Answer.—The provision of the law is, "that if any officer, seaman, &c., serving on board of any private armed vessel, &c., shall have died by reason of a wound received in the line of his duty, leaving a widow, &c., such widow shall be placed on the pension list by the Secretary of the Navy, who shall allow to such widow half the monthly pension to which the rank of the de

ceased would have entitled him, &c. ; which allowance shall continue for the term of five years : but in case of the death or intermarriage of such widow before the expiration of the term of five years, the half pay for the remainder of the term shall go to the child or children of the deceased."

Here is a certain right which the law says shall accrue to the widow on the happening of a certain event—that of her husband having died by reason of a wound received in the line of his duty on board of a private armed vessel. The law does not require either that an application should be made by her, or that anything else should be done in order to consummate her right. It is consummated by the mere fact of the death of her husband under the circumstances already mentioned. It is a vested right to so much money *per annum*, for five years, subject, however, to be discontinued and defeated by her death or marriage at any time within that term, but a vested and perfect right during the time that she continues to live the widow of her deceased husband ; and not defeated by her subsequent intermarriage, except from the time at which such intermarriage takes place.

Such I understand to have been the uniform practice under this act, ever since its adoption ; and I confess that I see no reason for changing the practice. There would have been more doubt under the act of 16th April, 1818, providing "that in every case where a person *has been put on the pension list, or granted a certificate of pension,*" under the former act, the Secretary of the Navy is authorized to allow the *full monthly pension*, instead of the *half*, for five years more, counting from the end of the former term ; and under the act of the 9th April, 1824, providing "that the pensions of all persons *who now are in the receipt thereof,*" under the provisions of the former laws, shall be continued for five years more, notwithstanding the explanation given to the latter act by the act of the 26th May, of the same year. But I understand that if a widow, whose rights commenced under the act of 1814, *now, for the first time*, makes an application for her pension, under all the past acts, no difficulty arises to her now receiving all that those acts give her, provided that she still remains the widow of the deceased. I understand, also, that even where she has since intermarried before she has made any application, or has died before she has made any application, the uniform practice of the department has been not to consider the application too late for all that was due at the time of her intermarriage or death ; the department having, heretofore, considered that as having been done which ought to have been done. It is a liberal exposition of these acts, in advancement of the public policy on which they are founded, and I see no sufficient cause to disturb it by recommending a change. And, indeed, I cannot conceive with what consistency a widow can be permitted now to draw a pension from the year 1812 to the present moment, provided that she still remains the widow ; but that half an hour hence, in which time the ceremony of her second marriage has been

performed, she forfeits all that right. The law annexes no such forfeiture to her second marriage; it only stops the pension *from the time of her second marriage*. If the objection be, that the pension is designed for her *present* support; and that the necessity for this support is supposed to exist only for the period during her widowhood;—the answer is, that it is only for the period during her widowhood that the demand is made; and inasmuch as the law supposes the necessity to subsist so long as the widowhood subsists, and attaches no other effect to the second marriage than to terminate that necessity, prospectively, from that period, it seems to me to pass the sphere of mere construction to give to this second marriage a retrospective effect, and to make it extinguish, *ex post facto*, the past necessity. If the non-claim during the widowhood is interpreted as admitting that, there was no necessity for the pension during those long past years which the pension was required to supply, and thus take her case out of the law too. But this necessity is *assumed* as one of the requisites for the application of the law. The right of pension does not at all depend on that necessity. It is given to the widows and children of officers and men, of rich and poor, without regard to their circumstances. It is in the nature of an absolute engagement or promise made to those officers and men, that if they fall in the service of their country, so much shall be paid to their wives and children, without inquiry into the fact whether they stand in need of it or not. Nor is there any condition annexed to the promise that the money shall be paid, *if applied for in a given time, or in a given state of things*. It is bottomed only on the single condition that the husband and father shall die in the service of his country; on the happening of which condition, the public engagement becomes a *debt*, which is as much *property*, and the property of the widow and children, as any bonds which the deceased may have left to them by his will. I am of opinion that the practice is right, and ought not to be disturbed; and have the honor to remain, very respectfully, your obedient servant,

To the SECRETARY OF THE NAVY.

WM. WIRT.

[24.]

MILITARY PENSIONS.—Act of 2d March, 1821, has not repealed act of 1815: A virtual or implicative repeal is only permitted where there is some repugnance between the last act and the former.

ATTORNEY GENERAL'S OFFICE, Nov. 17, 1828.

SIR: In answer to your inquiry of the 13th instant, I have the honor to state, as my opinion, that the act of the 2d March, 1821, to reduce and fix the military peace establishment of the United States, has not repealed or changed in any manner the claims for pensions given by the analogous act of 1815 and the acts to which it refers. There is no positive repeal of these provisions in the

act of 1821; and a virtual or implicative repeal is only permitted where there is some repugnance between the last act and the former. None such exists in this case. If, therefore, the words of the 11th section of the act of 1821 were not broad enough to continue the claim to pensions, I should consider them as supported by the antecedent unrepealed laws: being satisfied that Congress had no intention, by the act of 1821, to alter the existing military system, farther than to reduce the establishment, and to make the positive changes which they have made by the act of 1821. I am of the opinion, therefore, that the 11th section of the act of 1821 must be liberally construed, as recognizing all the objects more especially provided for by the 7th section of the act of 1815, and, among these objects, the claim to pensions.

To the SECRETARY OF WAR.

WM. WIRT.

[25.]

INCREASE OF MILITARY PENSION.—Increase of pension as arrear to make up a deficiency alleged of a former allowance, cannot be granted except by application to Congress.

OFFICE OF THE ATTORNEY GENERAL, *December 17, 1829.*

SIR: Your communication on the subject of Thomas Fitzgerald, a pensioner, is before me.

You state, substantially, that Thomas Fitzgerald having been wounded after the passage of the act of the 29th January, 1813, which authorizes the allowance of pensions graduated according to the rate of disability, and having exhibited to the then Secretary of War a surgeon's certificate of his total disability, was, nevertheless, placed on the pension list in 1815, at half the allowance granted for a total disability; that the full allowance for such disability was accorded to him in 1821; and that he now claims from you the difference between the allowance for a total and partial disability from 1815 to 1821.

In answer to your inquiries I have to state that, not having before me the evidence on which the Secretary of War acted in placing Thomas Fitzgerald on the pension list originally, I cannot form an opinion whether he was or was not then entitled to the allowance provided for a total disability; but I deem it the less important to make this inquiry, being of opinion that the error committed by your predecessor (if any error was in fact committed) can only be remedied by an application to Congress.

JN. MACPHERSON BERRIEN.

To the SECRETARY OF WAR.

[26.]

ARREARS OF REVOLUTIONARY PENSIONS.—Arrears due to a revolutionary pensioner on the pension roll are payable out of the general appropriation for "revolutionary pensioners."

ATTORNEY GENERAL'S OFFICE, *June 2, 1830.*

SIR: I have, in conformity to the instructions of the President, examined the case of Joseph Shaw, and find that he was placed

on the revolutionary pension list on the 11th day of October, 1827; and that, by an act approved on the 28th May, 1830, you are directed to cause him to be paid at the rate of eight dollars per month, from the 10th April, 1818, to the day of the date on which his pension was allowed to commence, under the regulations of the Department of War; but that this act contains no special appropriation of money to meet its requisitions.

The question which this state of facts presents is, whether this amount of arrearages is payable out of the general appropriation for revolutionary pensions for the current year? and I am of opinion that it is so payable. The sum appropriated is generally for "*revolutionary pensioners*," of which class Joseph Shaw is one. No transfer of appropriation is therefore required. It is true that this appropriation, having been made on an estimate in which the arrearages of Joseph Shaw were not included, may be inadequate to meet all the claims for which it was intended to provide; but, if this should happen, it will result from the omission of Congress to provide specially for the additional charge which they have thus imposed on this particular fund, and the deficiency must be supplied hereafter. In the mean time, it is scarcely probable that such deficiency will occur before Congress will have time to provide for it.

JN. MACPHERSON BERRIEN.

To the SECRETARY OF WAR.

[27.]

¶ NAVY AND PRIVATEER PENSIONS.—The opinion expressed, [22], ante, in favor of the pension claims of widows and orphans of officers of the navy and of officers of marines, and also of widows and orphans of seamen and marines, is modified by the following opinion, so as to embrace, 1st, widows and orphans of officers, seamen, and marines, who, *since* the 18th June, 1812, had been killed in battle: 2d, widows and orphans of officers, seamen, and marines, who, *since* the same period, had died by reason of wounds received in the line of their duty: 3d, widows and orphans of officers, seamen, and marines, who, *since* the same period, had died in consequence of *diseases* contracted, or of *casualties* or *injuries* received while in the line of their duty.

OFFICE OF THE ATTORNEY GENERAL, *September 6, 1830.*

SIR: I have received your letter of this date, and proceed to answer your inquiry.

The act of 1813 provides that a pension shall be allowed to the widow, and, if there be no widow, to the child or children (being under sixteen years of age) of any *officer* of the *navy* or *marines*, who shall be *killed*, or *die by reason of a wound received in the line of his duty*. This act, it will be observed, is confined to the widows and children of *officers*; and simply requires that the death, or wound from which death has ensued, shall have been received by such officer "in the line of his duty."

The act of 1814 extends the provision prospectively to the widows and children of "seamen" and "marines;" and then, including *officers*, provides *retroactively* for all deaths which may

have occurred *since the 18th June, 1812*, the date of the declaration of war against Great Britain; using the same words to describe the nature of the death which shall entitle to pension—that is to say, that it shall have been occasioned by a wound *received in the line of duty*—as are used in the act of 1813; and, like that act, not requiring that the death shall occur prospectively, within any specified time.

It is the purpose of the act of 1817, which is amendatory of the preceding act, to give to this provision a still greater extension; and, accordingly, in relation to the same class of persons, provides for deaths which shall occur, or shall have occurred since the 18th June, 1812, “in consequence of ‘*desease contracted*,’ or of ‘*casualties*,’ or ‘*injuries received*,’ while in the line of duty.” The former acts provided only for cases of death in consequence of *wounds*; while this extends the provision to cases where death has ensued from “desease contracted,” or “casualties or injuries received.” In neither of the acts is there any prospective limitation of *the time when the death must occur* to entitle the widow or children to the benefit of the pension.

These three acts, it will have been seen, provide, permanently, for the allowance of a pension to the widow, or child or children under sixteen years of age, (if there be no widow,) of every officer, seamen, or marine, of the navy of the United States, who has died since the 18th June, 1812, or who shall die after the date of the acts, in consequence of wounds, deseases, casulaties, or injuries, received or incurred in the line of his duty; that is, as I understand it, who shall come, or who shall have come to his death, since the prescribed period, in whatever manner, and either presently or remotely, in the discharge of his duty. Prospectively, the provision is unlimited. Retrospectively, it is restrained to the 18th June, 1812. These are the several acts which relate to the *original grant* of pensions. Those which follow provide for the *renewal* of them.

We are now prepared to examine the act of 1819, to which your inquiry relates, and concerning which you ask, in substance—

Whether, to entitle a widow, or child, to the renewal of a pension under that act, it is necessary that the officer, seaman, or marine, through whom it is claimed, should have been wounded during the war, and *should also have died during the war*?

The act under consideration provides, “that in all cases where provision has been made by law for five years’ half pay to the widows and children of officers, seamen, and marines, who were killed in battle, or died of wounds received in battle, or who died in the naval service of the United States, during the late war, the said provision shall be continued,” &c.

If I were required to interpret this act *strictly*, with a view to narrow, as much as its terms would permit, the bounty which it provides;—if I were obliged (overlooking what I conceive to be the spirit and intention of the act, to found my answer on its

letter) and to construe that most strongly against the grantee,—I should perhaps be constrained to acquiesce in the opinion given by my predecessor to yours, on the 22d July, 1828, which is before you. But, after a very careful and anxious consideration of the subject, I cannot divest myself of the conviction that such was not the intention of Congress, and that the words of the act are fairly susceptible of a different interpretation. I do not propose to trouble you with an elaborate argument on this question, but will content myself with such an exposition of my views as may suffice to render them intelligible.

In framing the act of 1819, Congress had it in view to provide for an extension of the bounty which had been therefore granted to the widows or children of certain persons who had “died in the public service.” This intention is expressed in the title of the act, which, although it cannot be used to extend the provisions of the enacting clauses, ought not to be wholly disregarded in searching for the intention of the law makers.

The mode resorted to, to carry this intention into effect, was by an enactment which should, in terms, extend the provisions of the former pension laws. Congress, in the act of 1819, have not enacted *substantively* that the widows, &c., of officers, &c., who were killed in battle, or who died of wounds received in battle, or who died in the naval service of the United States during the late war, shall receive five years’ additional pension. But, referring to the former laws, they have declared that, where *provision has been made by law* for persons of that description, their pensions shall be renewed. To give effect, then, to the act of 1819, it is obviously necessary that there should be some pre-existing laws which make such provision as it specifies. If one construction of its terms shall be found to correspond with pre-existing laws, and another not to do so;—if, according to one interpretation, the *provision* to which it refers has in fact been *made by law*, while another supposes a reference, to which no answering provision can be found to have *been made by law*—the former is, without doubt, to be adopted, in order to give effect to the act.

With this idea in view, let us proceed in our examination. The persons to whom this bounty had been granted before 1819 were the widows or children—

1st. Of officers, seamen, or marines, who, since the 18th June, 1812, had been killed in battle.

2d. Of the same classes, who, since the same period, had died by reason of a wound received in the line of their duty.

3d. Of the same classes, who, since the same period, had died in consequence of diseases contracted, or of casualties or injuries received, while in the line of their duty.

These provisions had been made by the several acts of 1813, 1814, and 1817; and it is observable, that the widows or children of these several classes of persons were entitled to the pensions provided for by the acts above referred to, *without regard to the*

time when the death occurred, except that it must have happened after the 18th June, 1812.

These were the only acts which Congress can be supposed to have had in contemplation in framing the act of 1819; and the pensions which they granted were so granted, without reference to the fact whether the death had occurred in war or in peace. No such distinction was recognized by pre-existing laws. No act had made provision for five years' half pay to the widows and children of officers, seamen, and marines, who had been *killed during the war*, or who had *died during the war*, of wounds received in battle, or who had died in the naval service of the United States during the war. It was not possible, in reading those acts, to affix such limitations to either of them. It was true, indeed, that the widows or children of persons killed during the war, or dying during the war, of wounds received in battle, or who had died in the naval service of the United States, during the war, had been placed on the pension list, and were in the receipt of the five years' half pay; but this was under the more general provisions of these acts, which were equally applicable to them and to others—to those who had died *in war*, as well as to those who had died *in peace*; and they were not so placed on the pension list because these events had occurred *during the war*, but because they had occurred *after the 18th June, 1812*.

If, then, it had been the intention of Congress, in the act of 1819, to limit the renewal of pensions to cases where the death had occurred during the war, it seems to me that they would have done this by a distinct and substantive enactment to that effect—not by a reference to the provisions of former laws; and for the obvious reason, that no act containing such restrictive provisions as this construction ascribes to the act of 1819 was to be found.

I think, moreover, that the words of the act of 1819 are fairly susceptible of a different interpretation from that which excludes all persons except those who died during the war. These words are “where *provision has been made by law* for the widows,” &c., “of officers,” &c., “*who were killed in battle, or died of wounds received in battle,*” or “*who died in the naval service of the United States during the late war.*” These latter words (“during the late war”) are words of limitation—of restriction. Now, I think it may be well questioned whether their operation ought not to be *confined to the last member of the sentence*—whether it was intended that they should do any thing more than *to qualify the grant to the third class of persons enumerated*, namely, those who had died in the naval service of the United States. Then the classification would stand thus:

To the widows or children—

1. Of those who had been killed in battle.
2. Of those who had died of wounds received in battle.
3. Of those who had died in the naval service of the United States during the late war.

In support of this suggestion, I would remark—1st. That it

was obviously unnecessary to apply this restriction to the *first* class. The wound and the death were contemporaneous in such cases. 2d. That no sufficient motive can be assigned for an intention, on the part of Congress, to apply it to the *second*. They meant to provide for the widows and children of those who died of wounds received in fighting the battles of their country; and whether the death was instantaneous, or occurred after an interval, if it could be certainly traced to the wound, the motive in either case would be the same. 3d. We may readily understand why the restriction was applied to the *third* class. That class includes deaths from every other cause, except wounds received in battle. To excite the crew of a national ship to deeds of heroism in time of war, Congress might be willing to allow a pension to the widow, &c., of a seaman who fell from the mast-head and was killed; and yet not think proper to extend the same bounty, in a case of similar casualty, occurring in time of peace. It would, then, be useless to apply these restrictive words to the *first* class. It would be improper to extend them to the *second*; but a very sufficient motive is found for their application to the *third*. It is fair to presume that Congress was actuated by a corresponding intention.

But let us suppose these words of restriction applicable to each of the three classes of cases specified, and not exclusively to the last;—the inquiry is, do they relate to the time of *the death*, or to the time *when the cause occurred* which occasioned it? Apply the inquiry to the second class, to which your question more particularly refers—to those who died of wounds received in battle—and consider them as restricting the cases of that class to which the renewal should extend. In this case, they must be read in immediate connexion with the words which they are supposed to limit. Put these restrictive words, then, in juxtaposition with the descriptive words which relate to that class, and you will have the following collocation: “Who died [of wounds received in battle] during the late war?” Here is a sentence which consists of three members: the *first*, “who died,” relates to the *death*, the primary motive to the allowance of the pension: the *second* specifies the *cause* of that death, in the words “of wounds received in battle;” the *third* defines the *time of their being received*—“during the late war.” It may, perhaps, be said that these last words relate to the *time of the death*, and not to *that of receiving the wound*; because the term “*battle*” supposes a state of war, and that a wound received in battle must have been received during the war. If this be conceded, I think it may be satisfactorily answered that sufficient effect may be given to the words “in battle,” without ascribing to them this forced operation. A man may have received a wound during the late war which occasioned his death, and yet have furnished no meritorious claim to his widow or children to the allowance of a pension. His wound may have been received in a mutiny, from the hand of an *assassin*, or in *private combat*. To exclude such

cases, the expression "in battle" is used; and the effect is to confine it to wounds received *in fighting the enemies of his country*. It is still open, then, to us to inquire what is the fair interpretation of this sentence? Do the restrictive words apply to the first or last member of it? to persons who *died during the last war*, or to those who died—no matter when—*of wounds received in battle during the last war*? In fair grammatical construction, the last member of the sentence is the immediate antecedent, and the operation of the restrictive words cannot go beyond it.

Test this by an example. If the opinion of the physicians who were consulted was correct, the late Major General Brown ultimately fell a victim to the wounds which he received on the Niagara frontier. Admitting this to be true, may it not be said of General Brown that he "died of wounds received in battle during the late war?" and would any one understand the speaker to intend thereby to assert that he "*died during the late war*?" I think not; and yet these are the identical words of the act to which that construction has been given.

If we look to the intention of Congress—to the motive which would probably influence them in granting the renewal of a pension—this construction is confirmed. What conceivable difference can it make in the justice of the claim to a pension, whether the officer, &c., dies at the instant of receiving his wound, or languishes until the end of the war, and then breathes his last? What conceivable difference is there between the two cases, as relates to the wants of his widow and children? It is the *heroism which impels him to the conflict* which you would reward in the person of his widow or children; and *they are equally objects of your bounty* in either case.

I think, then, that the widow or children of an officer, seamen, or marine, who has died since the late war, of a wound received in battle during the war, is or are entitled to a renewal of his, her, or their pension, under the act of 1819; and I found this opinion upon the following considerations:

1. That, unless this interpretation be given to that act, there are no such pre-existing laws as those to which its provisions could be made to refer.

2. That this interpretation is sanctioned by the rules of grammatical construction applicable to the sentence on which the question arises; and that such a sentence would be similarly understood in common parlance.

3. The interpretation thus deduced from the reference of the act of 1819 to pre-existing laws, and from the grammatical construction and familiar use of the sentence, is confirmed by a consideration of the motives which may reasonably be presumed to have influenced Congress in passing the act.

JN. MACPHERSON BERRIEN.

To the SECRETARY OF THE NAVY.

[28.]

ARREAR COMMUTATION OF FULL PAY.—The commutation of five years' full pay, granted to officers under resolution of 22d March, 1783, in lieu of half pay for life, did not imply interest to accrue on arrears of the same claimed by heirs in any case, nor can it be allowed unless so expressly provided by act of Congress for their relief.

ATTORNEY GENERAL'S OFFICE, *October 2, 1830.*

SIR: I have examined the case presented by the memorial and accompanying documents of Mrs. Sarah Easton and Mrs. Dorothy Storer, which you have referred to me. In forming my opinion on this subject, I am not permitted to enter into a consideration of the meritorious character or equitable extent of the claim presented by the memorialists to Congress, nor to allow that opinion to be influenced by the view which I may entertain of the distinguished services of the ancestor through whom this claim is deduced. My duty is limited to the inquiry: "What is the extent of the appropriation made by the act of the 29th May, 1830, in favor of the memorialists?" If the terms of the act, or the interpretation which may be given to it, should fall short of the benevolent intentions of Congress in this behalf, they will have the power to correct any error which may result from defect in the law, or misapprehension in its construction.

The act under consideration directs the accounting officers of the treasury to pay to the memorialists "five years' full pay, being the commutation for half pay for life, due to their father in his lifetime." This commutation became conditionally due to Colonel Harrison, under a resolution of Congress of the 22d March, 1783. The question presented to me is, whether the act for the relief of the memorialists, in addition to five years' full pay, appropriates to them, also, interest on that amount from the time when Colonel Harrison might have entitled himself to receive it. I am constrained to say that I think its terms, whatever may have been the intent of those who framed it, do not warrant this construction.

The act appropriates to the memorialists simply "five years' full pay," and explains that this appropriation is a commutation for half pay for life due to Colonel Harrison in his lifetime; *but it appropriates nothing more than five years' full pay, which, and which alone, it declares shall be a commutation for such half pay for life.* Whether it is an equitable commutation—whether it is as beneficial an exchange of pay as Colonel Harrison might in his lifetime have obtained under the resolution of 1783—are considerations which cannot influence the accounting officers of the treasury, whose authority is derived only from the act of 1830.

I have read the opinion of one of my predecessors in a similar claim in behalf of the representatives of Alexander Hamilton, and a letter from the chairman of the committee by whom the bill under consideration was reported, but find myself unable to acquiesce in their views of the subject.

In the case of Mrs. Hamilton, which is substantially like the present, the Attorney General relies upon the presumed intention

of Congress to place her upon a footing of equal advantage, in all respects, with the officers entitled to commutation under the resolution of 1783. In that case, I am unable to collect any such intention from the words of the act; as in this they appropriated five years' full pay, and nothing more; and declared that that (the five years' full pay) was the commutation of Colonel Hamilton's half pay for life.

The chairman of the committee puts the present claim on the ground that the United States were indebted to Colonel Harrison, in his lifetime, in a sum equal to five years full pay; that if he had then claimed this commutation, he would have received a certificate bearing interest; and that the memorialists are consequently entitled, on receiving a payment in money, to have interest on its amount. It is to be observed, however, that Congress reserved to themselves, by the resolution of 1783, an option to pay either in money, or in securities bearing interest; and were consequently at liberty to exercise this option when the applications for the commutation were made. In this case, no application was made during the lifetime of the party entitled. As soon as it is made by his representatives, Congress direct the payment of the full amount in money. It seems, therefore, to fall within the ordinary cases of claims against the Government, which, however undoubted, are not payable until demanded—and then without interest, unless the claimant shall have paid interest; in which case, indeed, interest becomes strictly a portion of the principal of his claim.

I confine myself, however, to the words of the act, which expressly appropriates *five years' full pay*, and does not expressly appropriate any thing more. Beyond this I do not think that the accounting officers of the treasury are authorized to go.

JN. MACPHERSON BERRIEN.

To the PRESIDENT OF THE UNITED STATES.

[29.]

BOUNTY LAND.—A soldier's title to land bounty, under the act of 11th January, 1812, is not impaired by his employing a substitute.

ATTORNEY GENERAL'S OFFICE, Nov. 4, 1831.

SIR: In reply to your inquiry of this morning, I have the honor to state that, in my opinion, a soldier, who during the late war was enlisted to serve for the term of five years, and was honorably discharged before the expiration of his term of service, in consequence of his having provided a substitute, (who, however, afterwards deserted,) is entitled to one hundred and sixty acres of land from the United States, under the act of Congress of January 11, 1812. The United States, in accepting the substitute, receives what they regard as an equivalent for the services of the soldier; and I do not think that he is responsible for the future

conduct of the person thus agreed to be accepted. As soon as he is discharged from service, and obtains the certificate that he has faithfully performed his duty whilst in service, he becomes entitled to the land; and no subsequent contingency can destroy his right.

To the SECRETARY OF WAR.

R. B. TANEY.

[30.]

INVALID PENSIONER.—His pension is suspended, only, for omission to give proof of continuance of disability every two years: He cannot be stricken from the pension roll on that account.

ATTORNEY GENERAL'S OFFICE, *Dec. 9, 1831.*

SIR: An invalid pensioner, who had proved his title to a pension, and been placed on the pension list as such, has omitted, for more than two years, to produce the proof of two surgeons, as required by the act of March 3, 1819.

The question is, can he be lawfully dropped from the pension-roll on account of this omission? And must he offer again the proofs of his title to a pension, as if it were an original application, before it can be paid to him?

I think the act of March 3, 1819, does nothing more than suspend the payment until the proof of the surgeons is produced. In order, however, to entitle him to the pension for the whole of the time past, the proof must apply to his condition as an invalid at the expiration of every two years, and show that at those periods his disability continued. But, upon offering such proof from two surgeons, in the manner prescribed by the act of Congress, he is entitled to the payment of his pension, without again producing the evidence which was necessary in the first instance to entitle him to the pension.

But a long omission to apply for payment and offer the proof, unless properly accounted for, may furnish grounds for suspicion, and would certainly justify a more rigorous examination into the claims of the applicant.

To the SECRETARY OF WAR.

R. B. TANEY.

[31.]

PENSION CLAIM OF GENERAL McNEIL.—This and other similar claims of civil officers to be placed on the pension rolls, and at what rates of pension, depend on the "regulations" and "rates" that may be prescribed by the President, according to the act of 16th March, 1802.

ATTORNEY GENERAL'S OFFICE, *May 31, 1832.*

SIR: General McNeil's application for a pension is made under the act of July 11, 1812.

This law directs that if any officer, non-commissioned officer, &c., shall be disabled while in the line of his duty, "*he shall be*

placed on the list of invalids of the United States, at such rate of pension and under such regulations as are or may be directed by law;" and then proceeds to limit the pension which may be allowed to the party. It does not fix the amount to which he shall be entitled, but declares that it shall not exceed certain amounts mentioned in the law.

As this act of Congress gives the party a right to a pension "at such rate and under such regulations as are or may be directed by law," and does not prescribe the manner in which the rate is to be fixed, nor the particular regulation under which he shall be entitled to be placed on the roll of pensions, we must look for some other act of Congress to guide us in this respect. And the only act of Congress then in force, to which this law can be supposed to refer, is the act of March 16, 1802. It is very clear that the act of 1812 cannot be construed to refer to the law of April 25, 1808, which placed invalids who had then been disabled, and who had received their wounds after the revolutionary war, on the same footing with the revolutionary pensioners. And I understand the uniform construction given to the act of 1812 has been, that it referred to the provisions of the act of 1802, to ascertain the rate of pensions, and the regulations by which the party was to become entitled to it. I think this construction is the true one; and as no subsequent law has provided different regulations, or a different mode of fixing the amount of the pension, the provisions of the act of 1802 must, in these particulars, govern in all cases which arise under the act of 1812.

The act of 1802 directs that the party shall be placed on the list of invalids "*at such rate of pay and under such regulations as may be directed by the President of the United States for the time being.*" This law vests in the President the power to prescribe the "regulations" upon which a party may be placed on the pension lists, as well as the rate of pay to be allowed him, provided the amount does not exceed the rates limited by the act of Congress. It is to the regulations and rate of pay thus to be prescribed by the President, that the act of 1812 refers as being then directed by law; and, consequently, it rests with the President to prescribe the regulations under which a person is to be admitted as a pensioner, and also the rate of pay in all cases which arise under the act of 1812, as well as in those under the act of 1802.

As the President may prescribe the "regulations" under which a party shall be placed on the pension list, no one is legally entitled to be placed there in opposition to any regulation which he may think proper to make on the subject. The order of April 18, 1829, was an exercise of the power thus vested in the President; and since that regulation was made, and while it remains in force, no one who is in the receipt of pay or emolument as an officer of the army can be placed on the pension list.

The case of General McNeil, however, is not embraced in this order. But it does not follow that he has an absolute right to be placed on the pension roll; for it still remains with the President

to decide whether he will apply the same regulation to all civil officers, or to any of them, or to what description. He may apply it, if he thinks proper, to civil officers receiving a certain amount of income from their offices, and exempt from its operation those whose allowances are less. And where his regulations do not exclude the party from the roll, he may fix the rate of pay as low as he thinks proper, taking care not to exceed the limits fixed by the act of Congress.

The result of the principles above stated, when applied to the case of General McNeil, is this: He has no absolute legal right to be placed on the pension list. It rests with the President to prescribe the regulations on this subject, which shall be applied to persons holding civil offices. If these regulations shall exclude General McNeil, he cannot be placed on the pension-list. If they do not exclude him, or if the President should see fit to make any regulations in relation to persons holding civil offices of profit, then General McNeil will be entitled to be placed on the pension roll. But, in that event, it will still be for the President to determine upon the rate of pay to be allowed to him as a pensioner.

To the SECRETARY OF WAR.

R. B. TANEY.

[32.]

PRIVATEERS.—The language of the navy pension act of the 28th June, 1832, cannot be construed to apply to privateers.

ATTORNEY GENERAL'S OFFICE, *July 21, 1832.*

SIR: The question I understand proposed to me in Captain Conner's case is, whether persons who served on board of privateers are embraced by the pension law of 1832? I think they are not included. The 5th section gives the pension to the officers, non-commissioned officers, mariners, and marines, who served "in the naval service" for the term mentioned in the act of Congress. The language used can apply to those only who were in the immediate service of the government and formed a part of the public naval force, and not to those who were engaged in private armed ships.

To the SECRETARY OF WAR.

R. B. TANEY.

[33.]

NAVY PENSIONS.—Error committed in allowing a pension by official decision, or advisory opinion of Attorney General, does not render the recipient of the allowance a debtor to the government.

ATTORNEY GENERAL'S OFFICE, *October 24, 1832.*

SIR: It appears from the papers before me that John M. Gardner, who was a master commandant in the navy of the United States, died shortly after the close of the war, of a disease contracted during the war; and that his widow, Sophia Gardner,

was placed on the pension list by the commissioners of the navy pension fund, under the act of 1817. Under this law she was clearly entitled to the pension. Her certificate was afterwards renewed, and the pension continued to her under the acts of 1819 and 1824. The act of 1828, which continued the navy pensions for five years longer, gives pensions to the widows of persons who were killed in battle, or died in service, "during the last war;" and under this act it was decided by the commissioners of the navy fund that the case of Mrs. Gardner was not embraced by its provisions, and she was dropped from the roll. The language of the acts of 1819 and 1824, before mentioned, is the same in effect with that of 1828 in this respect, and gives the pension to those who were killed in battle, or died in service, "during the last war." And if the construction placed on the act of 1828 was the true one, then the pension of Mrs. Gardner ought not to have been continued under the acts of 1819 and 1824.

It is unnecessary in this case to decide whether the construction given to the act of 1828 was the true one or not. I find, on examination, that Mr. Wirt and Mr. Berrien differed in opinion on this point. But, assuming that the opinion given by Mr. Wirt is the correct interpretation of the law, and that the pension of Mrs. Gardner ought not to have been continued under the acts of 1819 and 1824, it does not follow that she is to be regarded as a debtor to the government for the amount received under these two acts. On the contrary, I think that, inasmuch as the tribunal to whom the construction of these laws was confided by the government decided that Mrs. Gardner was embraced by their provisions, and the pension was paid to her under that decision, she is entitled to hold the money. The interpretation then given by the competent authority having jurisdiction of the subject cannot now be revised or reversed by their successors in the same office, so as to affect the rights of those who have received pensions, although the construction then given should now be deemed erroneous. The case would be different if any mistake of fact had been committed, or the government imposed on by false testimony.

The act of the last session of Congress in relation to these pensions, conforms in its language to the act of 1817; and Mrs. Gardner is entitled to a pension under this law. Being so entitled, she has, in my opinion, the right to receive her pension; and the money which was paid to her under the laws of 1819 and 1824 cannot be set-off against it. She is not debtor to the public for what she has before received under the decision of the tribunal established by the government to decide on her rights; and that sum cannot, therefore, be retained as a set-off against the money which, under the late law, is due to her from the public.

R. B. TANEY.

To the SECRETARY OF THE NAVY.

[34.]

BOUNTY LAND.—As real estate, a right to bounty land, may be devised to one heir-at-law, and to the exclusion of another, by the legal construction of the will of the testator, without being so expressed in direct terms.

ATTORNEY GENERAL'S OFFICE, Oct. 25, 1832.

SIR: From the statement before me, I think that Thilia Porter, as the heir and devisee of Lieutenant John Thorp, deceased, is entitled to the bounty lands due to him.

The case is this: John Thorp, at the time of his death, left issue two daughters, Elizabeth Serring and Thilia Porter, who were his heirs-at-law. The two grandsons mentioned in his will were the children of his daughter, Mrs. Serring.

The bounty land is not expressly devised to any one, nor is there any express general devise of the residue of his real estate. And if there had been nothing in the will to exclude Mrs. Serring from a share of the bounty lands, they would have descended equally to his two daughters, who were his heirs-at-law.

But the testator directs that the devise of certain real and personal estate made to Mr. and Mrs. Serring should go in full satisfaction of all right, title, interest, claim, and demand, whatsoever, which they might or could in any way pretend to have or claim to all or any part of his real or personal estate, except the bequest of the one-half of the residue of his personal estate, which, by a preceding clause in his will, he had given to her.

This strong language of exclusion from every thing but the property above mentioned appears to me to be, by necessary implication, a devise to Mrs. Porter, his only remaining heir-at-law, of the share of the residue of his real estate, which, in the absence of this clause of exclusion, would have descended to Mrs. Serring. The bounty lands, not being devised to any one, would be left to descend to the heirs-at-law. And when the testator gives to one of his heirs the one-half of the residue of his personal estate, and excludes her in express terms from any share of the residue of his estate, the portion of that heir in the residue of the real estate is, in my opinion, by necessary implication, given to his remaining heir. And Mrs. Porter is therefore entitled to these lands.

This opinion is expressed under the belief that the will of Mr. Thorp is sufficiently attested to pass real estate, and that his two daughters, Mrs. Serring and Mrs. Porter, were both living at the time of his death. The officer in charge of the Bounty Land Office will, of course, satisfy himself on these points before he acts on this opinion.

To the SECRETARY OF WAR.

R. B. TANEY.

[35.]

REVOLUTIONARY PENSIONS.—1. Pensions under the act of 7th June, 1832, not confined to resident American citizens, but are extended to all surviving foreigners who served in the revolution, except "foreign officers." 2. The pension to every applicant to be estimated according to the different grades in which he may have served a sufficient time to

entitle him to a pension. 3. The act of July 14, 1832, only repeals the act of March 3, 1819, and thereby dispenses with the proof of continued disability of those already on the pension roll, but does not restore any who have been dropped from it for want of the proof. 4. The case of a pensioner having pledged his pension certificate for debt, does not require the renewal of the certificate, but he is entitled to payment of his pension without it, on evidence of his identity, notwithstanding the illegal alienation and detention of his certificate.

ATTORNEY GENERAL'S OFFICE, *October 27, 1832.*

SIR: I proceed to state my opinion upon the several questions you have proposed to me, on the construction of certain acts of Congress relating to pensions.

1. The act of June 7, 1832, granting pensions for revolutionary services, is not confined to resident American citizens. The 1st section gives the pension to "each of the surviving officers, non-commissioned officers, musicians, soldiers, and Indian spies, who served in the continental line, or State troops, volunteers, or militia," for the periods of time mentioned in the law; and the only persons excepted from the general description given in the 1st section are the foreign officers mentioned in the 3d section. The words "*foreign officers*" were used in the proceedings of the old Congress to designate the foreigners who held commissions in the American army; and they must, I presume, be regarded as used in the same sense in the law before me. They are the only persons excepted from the benefit of the law; and all other persons, whether residents or not residents of the United States who are embraced by the description contained in the 1st section, are entitled to avail themselves of its provisions.

2. If an applicant has served in different grades for a time sufficient to entitle him to a pension, it must be graduated by the respective terms of service in each grade. His pension is to be "according to his rank"—that is, according to the rank in which the service was rendered; not according to the rank he may have held at the termination of the service: for it might happen that, in the latter, he had served only a few days. And the service for which the law intends to remunerate him, is the service he performed during the prescribed period of time; and it measures the compensation by the rank in which the service was rendered.

3. The act of July 14, 1832, does nothing more than repeal the law of March 3, 1819; and thereby dispenses with the necessity of adducing the proofs of continued disability. It does not restore to the pension roll any one who had been dropped from it, but authorizes the payment to those who were then on the list of pensioners. The latter would have been entitled to receive their pensions, upon adducing proof of disability only; without offering the other evidence, which was necessary upon the original application for the pension. And the repealing law merely dispenses with the proof of disability, and allows those who were at that time recognized as pensioners to receive payment without it; but it does not restore pensions to persons who, by former omission of the required proof, had lost the character of pensioners, and were no longer acknowledged to be such by the competent authority.

4. It is not obligatory on the Secretary of War to issue a new pension certificate, where the party has pledged it for a debt, and the creditor refuses to deliver it without payment. The law does not require the certificate, in such a case, to be renewed; and there are many obvious and weighty objections, which will readily occur to you, against renewals of the certificate in such cases. But, as the law intended to prevent the pensioner from selling or mortgaging his pension, it would defeat its obvious policy, if the creditor, by withholding the certificate, could deprive the party of his pension, and thereby compel him to appropriate a part of it to the payment of his debt. The act of the creditor, therefore, ought not to prevent the payment of the pension. And if satisfactory proof is offered that the certificate is in the hands of the creditor, or any other person, and that it has been demanded by the pensioner, and the delivery refused; and if sufficient evidence is also adduced of the identity of the applicant for the pension, I think he is entitled to payment without the production of the certificate. The analogies in law, in the instances of deeds, or other instruments, which are out of the reach of the party, and which it is not in his power to produce, justify the admission of such evidence in this case; and, in my opinion, it ought to be received and deemed sufficient to entitle him to payment.

To the SECRETARY OF WAR.

R. B. TANEY.

[36.]

NAVY INVALID PENSIONS.—The invalid may receive a pension whilst in the public service, according to the degree of his disability which only renders him less able to provide for his subsistence; but a disability that would entitle him to a full pension would indicate the necessity of his resignation.

ATTORNEY GENERAL'S OFFICE, *Dec. 17, 1832,*

SIR: In the case of Captain Duncan, the question appears to me to turn on the meaning of the word "disabled," in the act of Congress of April 23, 1800. Does it mean that the officer, seaman, or marine must be disabled from performing the duties of his station, before he can receive a pension? Or does it mean any degree of personal disability which renders him less able to provide for his subsistence? I think the latter interpretation of the word "disabled" is most consonant to the spirit and object of the law. And indeed, it is the only one consistent with that provision in the statute which directs that the pension shall be graduated "according to the nature and degree of his disability," not exceeding one-half of his monthly pay.

The act of 1804, March 26, gave to the commissioners of the navy pension fund the power to make such regulations as they might deem expedient for the admission of persons on the roll of navy pensioners.

Under the law, the commissioners had the power to define what extent of injury would constitute a disability within the

meaning of the law, and to prescribe the rules by which the amount of pensions should be regulated in different degrees of disability. For example: a wound might have diminished the strength of a limb, without having in any degree impaired the capacity of the officer to discharge the duties of his station, or subjected him to any additional expense in the performance of his duties. Or, while it left him fully competent to discharge the duties of his station, it might still subject him to additional expenses, by rendering the assistance of others necessary in performing those offices about his person, which, before the injury, he could perform for himself. Or the wound might be such as to disable him altogether from performing the duties of his station, and thereby compel him to leave the service. In the first of these cases, it would have rested with the commissioners to decide whether the party was entitled to any pension while he continued in service, inasmuch as the injury did not diminish his means of subsistence. In the second case, it would have rested with them to graduate his pension between the lowest and highest sum, having reference to the additional burdens to which his ordinary pay and emoluments were subject by reason of his wound, and having regard also to any other circumstances which the commissioners might deem it just to consider in determining on the amount to be allowed. And, in the third case, the highest amount would seem to be the sum contemplated by law.

As Captain Duncan is still in service, and fully competent to discharge the duties of his station, his case comes within either the first or second classes above stated. And as all the powers and duties of the commissioners of the navy pension fund have, by the act of July 10, 1832, been devolved upon the Secretary of the Navy, I think it now rests exclusively with yourself to decide upon the principles above stated, and the facts which are in evidence before you, whether Captain Duncan is entitled to admission on the roll of navy pensioners; and if he is so entitled, for what amount of pension.

I have not thought it necessary to refer in this opinion particularly to the provisions of the act of April 16, 1816, because it provides for a peculiar class of cases, differing altogether from that of Captain Duncan.

To the SECRETARY OF THE NAVY.

R. B. TANEY.

[37.]

NAVY INVALID PENSIONS.—The same opinion, expressed in the preceding, [36.] is repeated, with this addition.—That according to the powers given to the Board of Navy Commissioners by the act of 26th March, 1804, to fix the period at which a pension shall commence, and the rate of pension to be allowed; the said board, or their substitute, the Secretary of the Navy, may, upon reconsideration of the case at the instance of the pensioner, order an increase of the pension, and that it commence at an earlier date, if convinced that injustice was done by the first decision.

ATTORNEY GENERAL'S OFFICE, *December 21, 1832.*

SIR: In the opinion which I had the honor to send you a few

days ago, in the case of Captain Duncan, I stated what appears to me to be the true construction of the acts of Congress conferring pensions on officers, seamen, and marines, disabled in the line of their duty.

The case of Captain Jones, to which you have now called my attention, does not, I think, give rise to any question of law which is not substantially answered in that opinion. But it may be proper, in addition to what I have there said, to explain more fully the principles which are more peculiarly applicable to the case of Captain Jones.

I understand Captain Jones to object to the allowance heretofore made him by the commissioners of the navy pension fund, on two grounds: 1st, that his pension ought to have commenced as early as 1815, instead of 1825; 2d, that it was, in the first instance, fixed at a lower sum than he was entitled to.

The power given to the commissioners by the act of March 26, 1804, to make such regulations as might to them appear expedient for the admission of persons on the roll of navy pensioners, authorized the commissioners to fix the period at which the pensions should commence, and also the principles by which the amount was to be graduated. They might have declared that the pension should begin from the time of the disability; or they might have determined that it should commence at the date of the application and exhibition of proof, if they deemed the latter period more consonant to the spirit of the law. And in the absence of any regulations on the subject, it was their province to exercise a sound discretion in this respect, in every case as it came before them.

The commissioners have, it seems, fixed 1828 as the time for the commencement of the pension they allowed to Captain Jones. It is immaterial whether, in deciding upon this point, the commissioners were governed by what they considered to be the regulations; or whether, in the absence of any regulation, they exercised the discretion with which the law had clothed them. In either case, they were the competent authority to decide; and their decision is, I think, binding upon you, unless you are satisfied by the evidence before you that it was given under mistake of fact; and that the date of the commencement of the pension would have been fixed otherwise, but for this mistake. For example: if you are satisfied by the proof that the commissioners took 1828 as the period for the commencement of the pension, under the impression that the first application had been made at that time, when, in fact, it had been made earlier; and had remained altogether unacted on without any fault of Captain Jones,—then it is in your power to correct the mistake, if, in your judgment, justice to Captain Jones requires it. But whether justice to him does or does not require it, is a question exclusively for your own discretion. In the absence, however, of such proof of mistake as you may think sufficient, you cannot legally revise the decision heretofore given, either as respects the time of the

commencement of the pension, or the sum allowed, so as to give your decision a retrospective operation. You may, indeed, at any time examine into the claims of the party; and if, from the evidence of increased disability, or new evidence of the extent of the disability, you believe he is entitled to a higher pension than he is then receiving, you may allow it, to the extent of the limits mentioned in the law. But the increase in such a case must be prospective, and begin from the date of your decision. It cannot be retroactive.

Referring you for the other principles involved in your decision to the opinion I have heretofore expressed in the case of Captain Duncan, I have, &c.

To the SECRETARY OF THE NAVY.

R. B. TANEY.

[38.]

NAVY PENSION TO WIDOWS.—The act of 28th June, 1832, extending pensions granted to widows and children under former acts, to widows only, is meant to exclude the children, but not to change the policy of the former acts.

ATTORNEY GENERAL'S OFFICE, *Jan. 4, 1833.*

SIR: I think Mrs. McCormick is entitled to her pension during the time she remained the widow of Lieutenant Leary.

If the act June 28, 1832, stood alone, and was to be construed without reference to any of the preceding acts of Congress on the same subject, the expressions "so far as respects widows only," contained in this law, would leave it very doubtful whether its benefits were not to be confined to those who were widows at the time of its passage. But this act must be taken in connexion with the previous laws on the same subject. And I find, by the opinion of the Attorney General of June 9, 1825, to which you have referred me, that, under the acts of Congress passed before that time, extending the periods for which the pension was allowed, widows who had married before the passage of the law, or before the application for the pension, had been uniformly held to be entitled up to the time of their marriage. As this opinion of the Attorney General sanctioned the construction which had been given by the Government, the same practice has, I presume, since prevailed in the execution of those laws, the same interpretation being given to them. The act of 1832 appears to have contemplated nothing more than a further extension of the public bounty in favor of the widow, prolonging the period of the pension, upon the same principles and in the same cases in which it had been extended by the previous laws, so far as they were concerned, but refusing to extend it in behalf of the children. And the words "so far as respects widows only," are not, I think, intended to change the policy of the former acts of Congress, so far as concerns the widows, but to exclude the children, who, under the former laws, upon her marriage became entitled for the remainder of the time of extension.

To the SECRETARY OF THE NAVY.

R. B. TANEY.

[39.]

REVOLUTIONARY PENSIONS OF 7TH JUNE, 1832.—Those pensioners provided for by previous acts, (that of the 15th May, 1828, for instance,) are entitled to the benefit of the act of June 7, 1832, when the provisions are more favorable. Also an officer, (a commissary for instance,) who held no rank in the line, and was therefore not provided for by the act of the 15th May, 1828, is entitled to pension under the act of June 7, 1832.

ATTORNEY GENERAL'S OFFICE, *May 18, 1833.*

SIR: In reply to your letter of the 16th instant, I have the honor to state that, by a literal construction of the first section of the act of 1832, every officer who was entitled to a pension under the act of May 15, 1828, would be excluded from a pension under the act of 1832; and if such a construction were adopted, an officer who had served to the end of the war as ensign, and who, previously or during the time that he was ensign, filled the office of commissary, would be excluded from a pension under the last mentioned law.

But, looking at the whole act, it appears that those who were on the pension list of 1828 were not excluded on the ground that their claims were less meritorious than those of others; but they were excluded because, being entitled under the act of 1828 to as much as they could receive under the act of 1832, it was deemed useless to make the same provisions over again in their favor. The 3d section of the law shows that it was not designed to exclude any of those who had pensions under other acts of Congress where the provisions of the act of 1832 were more favorable to their interests. I understand that a commissary is within the act of 1832, under the construction it has received at the War Department. If the commissary, therefore, had held no rank in the line, he would be entitled to his pension, because he was not provided for by the act of 1828. Did the law intend to draw a distinction between persons who had performed the same description of service, and to give to one what was refused to another for the like service? I think not: such a discrimination would have no foundation in justice. And it would, I think, be departing from the spirit and meaning of the law, to exclude one commissary from the act of 1832, because he had been an ensign; and give it to another, who had performed the same duty, but had held no rank in the line. The exclusive words in the 1st section ought to be confined to cases in which the party claims in the same character in which he is entitled under the act of 1828, and for the same description of service. And as, in the case you state, the applicant was not entitled to a pension as commissary under the law of 1828, he is not excluded from a pension on account of services in that character under the act of 1832, and is entitled to the pension as commissary, upon relinquishing his claim as ensign.

R. B. TANEY.

To the SECRETARY OF WAR.

[40.]

BOUNTY LANDS.—The heirs-at-law of a widow who died intestate are not entitled to bounty land claims of her deceased husband, who also died intestate; but the heirs of the deceased husband are entitled.

ATTORNEY GENERAL'S OFFICE, *Sept. 5, 1833.*

SIR: In reply to your letter of to-day, I have the honor to state that it appears, from the papers before me, that Jacob Brice, of Maryland, who was entitled to the bounty land in question, died many years ago, intestate, leaving a widow and three children; that the children all died intestate and without issue, in the life of the widow; and she died about the year 1817, intestate, without leaving issue, she not having married again. The present applicants for the land make claim to it as her heirs-at-law.

Upon the facts as set forth in the papers before me, the present applicants do not show themselves entitled to the land. It descended, on the death of Jacob Brice, to his children, and vested by descent in the surviving child. The mother was not the heir of that child, unless there was no representative to be found in the paternal line. And there is no evidence to show that there were not brothers and sisters of Jacob Brice, or some one of kin to him in the paternal line, who was competent to take, upon the death of the surviving child. The claim of the present applicants cannot, therefore, be allowed.

I am, sir, very respectfully, your obedient servant,
To the SECRETARY OF WAR.

R. B. TANEY.

[41.]

MILITARY INVALID PENSION.—Disability incurred from any cause by a person in the line of his military duty, if not occasioned by his own misconduct, is entitled to a pension.

OFFICE OF THE ATTORNEY GENERAL, *Dec. 20, 1833.*

SIR: I have carefully considered the question submitted to me in your letter of the 19th instant, in respect to the claims of Ebenezer Eaton for a pension under the invalid pension law.

It appears that the claimant was disabled by wounds inflicted on him in May or June, 1813, (at which time he was a sergeant in the army of the United States,) under the following circumstances: he was attempting to pass the guard under the sanction of a written permit granted to him by his commanding officer, when he was assaulted without any provocation, as he alleges, by the officer of the guard in such manner as permanently to disable him.

On this state of facts the question is proposed to me, whether the invalid pension laws, which allow pensions on account of disability occasioned by wounds or other injuries received while the applicant is "*in the line of his duty in the public service,*" extend to such a case?

There can be no doubt that the primary object of these laws

was to provide for the support of persons disabled in battle, or by injuries received whilst in the performance of some duty of material character; and a strict construction would perhaps exclude all cases of disability arising from assaults committed on the party by persons belonging to the same service. The benevolent character of these provisions, and the motives which led to their enactment, will, however, justify a more liberal construction; and I think, therefore, that a disability occasioned by an assault like that complained of in the present case, may fairly be considered as coming within the terms of the law, provided the War Department shall be satisfied as to the following particulars:

1. That the wounds were given without sufficient justification. For if the assault was brought on the claimant by his own misconduct, he cannot be said to have been disabled "while in *the line of his duty*."

2. That the permit was given to the claimant; and that he was about passing the guard for some purpose growing out of or connected with the public service. For if the pass was given to him merely for the purpose of enabling him to attend to his private affairs, and if, at the time he was injured, he was going about his own private business, he can in no sense be considered as in "*the public service*."

Whether the facts stated in the documents accompanying the application of Mr. Eaton are sufficient to bring his case within the principles above stated, is a matter upon which it is not my province to decide.

To the SECRETARY OF WAR.

B. F. BUTLER.

[42.]

REVOLUTIONARY PENSIONS OF 7TH JUNE, 1832.—1. The legal representatives of a widow, who died without demanding the arrear of pension due to her deceased husband, are entitled, exclusive of the orphan children.* 2. If no widow, the surviving children and the representatives of any deceased children, are entitled to the distributive share of such children, respectively. 3. If the deceased pensioner leave no widow or children, his legal representatives are entitled to the arrear.

ATTORNEY GENERAL'S OFFICE, *February 28, 1834.*

SIR: In the letter of the Commissioner of Pensions, enclosed to me in your communication of the 31st ultimo, the following questions are proposed, as arising on the 4th section of the act of June 7, 1832, chapter 126, viz:

1st. In case the pensioner died, leaving a widow, who also died without demanding the amount: does the law exclude the children, and make it necessary to administer upon the estate of the deceased widow; or are the children entitled to the balance due?

2d. If the pensioner died, leaving no widow, but several children, one of whom dies after the decease of the pensioner: are the heirs of the deceased child entitled to the amount which was

* This is different from opinion [40] in regard to land bounty.

due said child; or is the whole amount payable to the children of the pensioner?

3d. In case of the death of the pensioner, leaving neither widow nor child: is his legal representative entitled to the amount due?

The first section of the act referred to, declares that the various persons embraced within it shall be entitled to receive out of the treasury the amounts granted to them respectively, during *their natural lives*; and, although the payments are only to be made semi-annually, yet I conceive that, without any express provision in respect to the payment of fractional amounts to the legal representatives of the deceased parties, such representatives would have been entitled to demand and receive the same. In my judgment, the general rule applies to every case not specially provided for in the fourth section; that is to say, to all cases except those where the decedent left a widow, or, there being no widow, left children him surviving. But, in all cases where the decedent left a widow, or, leaving no widow, left children, I consider the widow, or, if there was none, the children living at his death, as entitled to the proportionate amount.

On applying these general rules to the questions above propounded, the following answers must be given to them:

1st. In the case stated in the first question, the legal representatives of the widow (that is to say, her executors or administrators) are the only persons who can demand the balance due.

2d. Where there is no widow, but several children, one of whom dies before the amount is paid, the surviving children, as such, are only entitled to their distributive shares of the balance due at the decedent's death; and the legal representatives of the deceased child (that is to say, his executors or administrators) are entitled to receive his share.

3d. The third question must be answered in the affirmative.

To the SECRETARY OF WAR.

B. F. BUTLER.

[43.]

REVOLUTIONARY PENSIONS OF JUNE 7, 1832.—The deficiency of two years' service as a captain, may not be made up by length of service in inferior rank.

ATTORNEY GENERAL'S OFFICE, *May 2, 1834.*

SIR: I have the honor to acknowledge the receipt of your communication of the 28th ultimo. The question presented for decision on the act of the 7th of June, 1832, in the case of Thomas Hubbard, as stated by the Commissioner of Pensions, is by no means free from difficulty. The law, it is true, proceeds on the principle that the party must have served two years as captain, or in a superior rank, in order to entitle himself to the full pay of a captain; and the like term in a subordinate rank, to entitle himself to the full pay belonging to it. But there is nothing in its language which very plainly shows that the deficiency of rank

might not be made up by length of service, so as to give the party a captain's pay : nor does it strike me as very inequitable that this should be the case.

I think, however, that it cannot be either necessary or proper to pursue this inquiry. The law, (to say the least of it,) is of doubtful interpretation ; and in such cases the cotemporaneous and uniform practice which has obtained under it, is sufficient to settle its construction. The rule stated by the Commissioner of Pensions has not only been in constant use in the Pension Office ever since the enactment of the law, but it is for other reasons important to adhere to it. By referring to the reports and other proceedings connected with the act of the 7th of June, 1832, it will be seen that the expenditure then contemplated was less than that already incurred. The Commissioner of Pensions states that the introduction of the rule contended for on behalf of Mr. Hubbard would still further increase that expenditure. This consideration would not, in a reasonably clear case, possess much weight ; but where the law is doubtful, and the opposite construction has the double advantage of early and constant usage, and of greater conformity to the expectations of the Legislature in its favor, I think it should prevail. My opinion, therefore, is, that there is no sufficient reason for changing the practice of the department ; and that the mode of compensation heretofore pursued by the Commissioner of Pensions should be continued.

To the SECRETARY OF WAR.

B. F. BUTLER.

[44.]

NAVY PENSION—Although the act of 30th June, 1834, provides pensions for widows of officers, seamen, &c., who have died in the naval service since the 1st of January, 1824, by reason of disease contracted, or of casualty by drowning, or other injuries received while in the line of their duty, the death of such officers, &c., from such causes, previous to January, 1824, cannot entitle their widows to pensions.

ATTORNEY GENERAL'S OFFICE, *October 17, 1834.*

SIR : I have the honor to acknowledge the receipt of your letter of yesterday, in relation to the case of Mrs. Anne Stevenson, who applies to be placed on the navy pension list.

It appears, from the papers accompanying your communication, that the applicant is the widow of Sailingmaster William Stevenson, who died in service in 1813, *but not in consequence of disease contracted, or of injury received*, while in the service ; and the question arises, whether, under these circumstances, the laws respecting the navy pension fund, now in force, entitle her to be placed on the pension list.

By the act of the 3d of March, 1817, (Laws of U. S., vol 6, p. 212,) pensions were granted for five years to the widows and children of any officer, seaman, or marine, who shall die, *or shall have died* since the 18th day of June, 1812, " in consequence of disease contracted, or of casualties or injuries received, *while in*

the line of his duty." It is obvious that Mrs. Stevenson was not entitled to the benefit of this act, because her husband did not die in consequence of disease contracted, or of casualties or injuries received "*while in the line of his duty.*" By the acts of the 3d of March, 1819, (vol. 6, p. 399,) the 22d of June, 1824, (vol. 7, p. 213,) and the 28th of June, 1832, (pamphlet ed. p. 32,) some supplementary provisions have been made; the effect of which, so far as the present question is concerned, was simply to continue the act of 1817, except that the second section of the act of 1832 extended to the widows of all those who may "*have died by reason of wounds received during the war.*" This enlargement of the pension list did not, however, include the case of Mrs. Stevenson, because her husband did not die by reason of any wound received during the war. The act of the 30th June, 1834, (pamphlet ed., p. 90,) continues the benefit of the act of 1832, for another term of five years, to those who had theretofore had the benefit thereof; and also extended the same "to the widows of officers, seamen, and marines, who have died in the naval service *since the 1st day of January, 1824, or who may die in said service by reason of disease contracted, or of casualties by drowning or otherwise, or of injuries received while in the line of their duty.*" This last provision fails also to reach the case of the present claimant; because her husband died before 1824, and not of an injury received while in the line of his duty. I am, therefore, of the opinion that the department is not authorized to afford her any relief.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[45.]

REVOLUTIONARY PENSION.—A surgeon belonging to the army of the revolution cannot receive a pension higher than that of a captain of infantry.

ATTORNEY GENERAL'S OFFICE, *December 19, 1834.*

SIR: In your communication of the 2d instant you propose to me the following question, which appears to have arisen in the case of Dr. Tunison, viz:

Can a surgeon who belonged in the army of the revolution to a regiment of artillery, receive an allowance higher than that of a captain of infantry?"

After attentively perusing the argument of Mr. Ray, and the other documents submitted to me, and bestowing on them mature consideration, I reply to this question in the *negative*, and for the following reasons:

1. Although it might be proper to construe the prohibitions against exceeding in any case the full pay "*of a captain in the line,*" contained in the acts of 1828 and 1832, as authorizing the allowance to officers *of the line* of the rank of captain and upwards, of the pay of a captain in the corps, whether of cavalry, artillery, or infantry, &c., *to which such officers belonged*; yet no such principle of interpretation can be applied to surgeons or

other staff officers, because they do not belong to any particular corps. In respect to them we are, therefore, necessarily obliged to select the pay of the captain of some particular class.

2. In making such selection I think it proper to take that class whose pay was *lowest*. The error involved in such a construction, if it should really be erroneous, would not be injurious to the government, and could easily be repaired by Congress; whereas, if the other rule should be adopted, and should chance to be erroneous, the mistake would in most cases be irreparable.

3. The general allusion to the pay of a captain in the line, when applied to the case of staff officers, must be understood as referring to captains in that corps which constitutes the main body of the military force. In our army this has heretofore been, and still is, the infantry.

4. The construction given to the rights of surgeons under the resolves of the old Congress, as stated in the letter of the Secretary of the Treasury, is, in my judgment, sufficient of itself, and without reference to any other reason, to decide the point.

To the SECRETARY OF WAR.

B. F. BUTLER.

[46.]

NAVY PENSIONS.—The act of the 3d March, 1817, entitled the widow of an officer, seaman, or marine, to receive half the monthly pay that her deceased husband was entitled to at his death; and although the act of the 3d March, 1835, regulating the pay of the navy of the United States, actually increased their pay without any reference to its operation on pensions, yet the pensions must be estimated according to the rates of increased pay *proper*, exclusive of perquisites.

OFFICE OF THE ATTORNEY GENERAL, *July 20, 1835.*

SIR: Pursuant to your directions, I have examined the various acts of Congress relating to navy pensions, and to the pay of officers of the navy, for the purpose of answering the question which has arisen in the case of Mrs. Henley, widow of the late Commodore Henley; and shall now proceed to state my views thereon.

The act of March 3d, 1817, provides, that if any officer belonging to the navy of the United States shall die in consequence of disease contracted, or of casualties or injuries received, while in the line of his duty, &c., leaving a widow, such widow shall be entitled to receive "*half the monthly pay to which the deceased was entitled at the time of his death,*" to continue for the term of five years, &c.

This law must undoubtedly be regarded as furnishing the general rule by which the rights of Mrs. Henley are to be settled; and although we are obliged to refer to other laws regulating the pay of officers of the navy, yet, so long as such pay was made by the *month*, no difficulty could arise in its application. Even where the monthly pay may have been increased since 1817, the principle would be the same; the language of the act of 1817 being such as to accomodate itself to the monthly pay, whatever it may

have been, to which the deceased officer was entitled at the time of his death.

Until the enactment of the late act "to regulate the pay of the navy of the United States," passed March 3d, 1835, captains in the navy were paid at the rate of one hundred dollars per month when commanding ships of thirty-two guns and upwards. Commodore Henley's case would have been governed by this law, had it not been for the new provision inserted in the act of 1835, which virtually repeals all former laws on the subject, and adopts the principle of *annual* instead of *monthly* pay; fixing that of captains in command of squadrons on foreign stations at four thousand dollars. To this annual pay Commodore Henley, as I understand, was entitled at the time of his death; and it is therefore urged, in behalf of his widow, that she is entitled, under the act of 1817, to the one-half of this sum per year, or the twelfth part of it per month, as her pension. On the other hand, the Secretary of the Navy is of opinion that the act of 1835 was passed without any reference to pensions, and has decided that, until Congress otherwise direct, pensions must be granted according to the *monthly* pay to which the officer was entitled, by law, at the time when the act granting such pensions was passed. It is upon this decision, from which Mrs. Henley has appealed to the President, that my opinion is required.

It may be admitted as highly probable that the act of 1835 was framed without any special regard to the pension law, and that its effect was not considered by Congress; but I cannot entirely subscribe to the opinion that pensions are to be limited to one-half the monthly pay established by the former laws. I think it very certain that Congress, in passing the act of 1835, intended to raise the *pay proper* to naval officers; and, so far as this was intended to be done, it appears to me it ought to produce a corresponding increase of the pension. The mere fact that the pay, instead of being fixed at a monthly sum, is to be paid quarterly or annually, and that it is spoken of as *annual* pay, does not, in my judgment, prevent the application of the rule given by the law of 1817, provided it be practicable to ascertain the precise amount of *pay proper* given by the new law. The pension law of 1817 seems to have been framed with a view to meet the case of an increase in the monthly pay, as well as of differences in the amount to which the officer may be entitled, arising from other circumstances; and therefore expressly provides that the pension shall be, not "one-half of the monthly pay given and established by the laws now in force," (which is the construction adopted by the Secretary of the Navy,) but "one-half the monthly pay to which the deceased was entitled *at the time of his death*." We are, therefore, as it seems to me, obliged to resort to the law of 1835, by which Commodore Henley's pay was regulated and fixed at the time of his death; and are not at liberty to take the amount fixed by the former law, which, as already observed, is repealed by the act of last session.

But I am by no means prepared to say that the widow is entitled to one-half the gross sum prescribed by the act of 1835. It is obvious, from the history of this law, and from its provisions, that Congress intended to include in the gross sum fixed by it, not only a certain amount of *pay proper*, (considerably increased beyond the monthly pay given by the former law,) but also to embrace an allowance for all the *rations* but one, and for sundry other *perquisites*. And as the pension laws have never been so framed as to give any part of those rations and perquisites to the widow or children of the officer, but, on the contrary, are carefully limited to one-half of the *pay proper*, I think the pension to be allowed to Mrs. Henley ought to be confined to one-half of so much of the annual sum of four thousand dollars as may be found to be referable to *pay proper*. The rations, (over one ration per day,) and the other perquisites, to which an officer in the situation of Commodore Henley at the time of his death would have been entitled under the laws in force on the 2d of March, 1835, must be deducted from the sum of four thousand dollars; and the one-half of the residue, after such deduction, will, in my opinion, be the proper annual pension to be allowed to Mrs. Henley. I have not in my possession the proper means of ascertaining the precise amount which this principle will give her; and, besides, the statement and liquidation of the sum to be deducted from the annual pay, and the calculation of the pension, more properly belonging to the Navy Department.

B. F. BUTLER.

To the PRESIDENT OF THE UNITED STATES.

[47.]

REVOLUTIONARY PENSIONS.—1. Under the laws of the State of Virginia, officers in her land service, chaplains, surgeons, and surgeon's mates, if citizens of the State, are entitled to half pay. 2. Field-officers, captains, and subalterns, who commanded in the battalions of Virginia or the continental establishment, and those raised for the defence of the State, or of the United States; and all supernumeraries on the reduction of said battalions, who again entered the service; are entitled to half pay without reference to citizenship. 3. Captains together with the subalterns, and all other commissioned officers of the State navy, the master surgeon, and surgeon's mates, are entitled to half-pay without reference to citizenship.

ATTORNEY GENERAL'S OFFICE, *February 9, 1836.*

SIR: In your communication of the 8th of December last, you inquire whether, in my opinion, *any* officers in the land service, not citizens of Virginia, were entitled to half-pay under the laws of that State; and you also put to me the like question in regard to the naval service.

I have looked into the statutes of Virginia, for the purpose of replying to your question.

The statute of May, 1779, ch. 6, (10 Hening's Stat. at Large, p. 25,) on which the first question arises, provides that "all general officers of the army, *being citizens of this Commonwealth*, and

all field-officers, captains, and subalterns commanding, or who shall command, in the battalions of this Commonwealth, on continental establishment, or serving in the battalions raised for the immediate defence of this State, or for the defence of the United States; and all chaplains, physicians, surgeons, and surgeon's mates, *being citizens of this Commonwealth*, and not being in the service of Georgia or any other State, (provided Congress do not make some tantamount provision for them,) who shall serve henceforward, or from the time they are commissioned until the end of the war; and all *such* officers who have or shall become supernumerary on the reduction of any of the said battalions, and shall again enter into the said service, if required so to do, in the same or any higher rank, and continue therein until the end of the war, shall be entitled to half-pay during life, to commence from the determination of their command or service."

If it had been intended to annex the qualification of citizenship to each of the cases enumerated in this section, I think it would have been done by a single general clause. The circumstance that the Legislature, instead of adopting that course, have in two instances annexed the qualification to clauses providing for particular cases, indicates, to my mind, an impression on their part that there were good reasons for discriminating between the various classes, and that in some of them the qualification was not to be required. It also appears to me that in all doubtful cases arising under these acts, the intendment should be, that the law-makers designed to provide for all the officers in the service of their State, whether citizens or not. As a general rule, and especially in recent cases, it is undoubtedly proper to decide all doubtful questions arising on laws appropriating public property in favor of the Treasury; because the error, if any there be, in such decision, can be corrected by the Legislature. But, in the present case, if too rigorous a rule of interpretation be adopted, the error it may produce must, from the nature of the subject, pass without correction. For these reasons, I am of opinion that the words expressing the qualification of citizenship ought not to be extended beyond the particular clauses to which they are joined. The application of this rule will produce the following results:

1. General officers of the army, and chaplains, physicians, surgeons, and surgeon's mates, to be entitled to the benefits of the law, must be citizens of the State of Virginia.

2. Field-officers, captains, and subalterns, who commanded in the battalions of Virginia on the continental establishment, or who served in the battalions raised for the immediate defence of the State, or of the United States; and all such officers who became supernumerary on the reduction of any of said battalions, and who again entered the service when required, in the same or any higher rank and continued therein until the end of the war, were entitled to the benefits of the law, although they were not citizens of Virginia.

The act of May, 1780, ch. 27, (10 Hening's Stat. at large, p.

298,) by which the question as to the naval service is to be determined, is in the following words: "*And be it further enacted, That the said captains, together with the subalterns, and all other commissioned officers of the navy, the master surgeon, and surgeon's mates, shall be entitled to the same pay and rations, the same privileges and emoluments, and rank in the same degree with the officers of the like rank belonging to the regiments heretofore raised for the internal defence of the State.*"

The principles of interpretation above stated lead me still more satisfactorily, in regard to this branch of the service, to the conclusion that all the officers enumerated in the provision now quoted are entitled to half-pay, without reference to citizenship.

To the SECRETARY OF WAR.

B. F. BUTLER.

[48.]

INVALID PENSIONS.—Although invalid pensions have been required by some pension laws and opinions of attorneys general, and by partial usage of the office based thereon, to commence from the completion of the evidence, some acts authorize them to commence from the date of disability, or from the time the invalid's pay ceased; which latter principle this opinion declares ought to be adopted by Congress as the uniform principle of justice to all invalids disabled during and since the revolution. The quotations and references here show a remarkable inconsistency in the provisions of law, and an unsettled practice of the department, not without their parallel in other respects.

ATTORNEY GENERAL'S OFFICE, *March 31, 1836.*

SIR: I have had the honor to receive your communication of the 2d instant, submitting for my opinion certain questions presented in a report from the Commissioner of Pensions, in relation to a pension claimed by General Ripley.

It appears, from the document referred to me, that in September, 1829, General Ripley applied to your department for a pension, on account of disability arising from a severe wound which he received while in the service, on the 17th of September, 1814; and that he claimed pay from the time the wound was received. His claim for back pay was not admitted by the Secretary of War, on the ground that the second section of the act of the 15th of May, 1820, applied to the case, and limited the commencement of the pension to the time when the testimony was completed. In 1831 General Ripley again made application to the department; but a pension was not granted, because the surgeon's affidavit was defective, in not being sufficiently clear in stating the disability, and in not in having the necessary authentication. A letter containing the objections was addressed to the claimant on the 9th of March, 1831. In December last, application was again made, and the claim allowed, (there being then no objection to the evidence,) to commence on the 21st of November, 1835. The pension certificate was, however, returned by General Ripley, who again urged his claim for pay from the 17th of September, 1814, on several grounds, stated at length in an argument which is among the papers referred to me, and in which

he asks a decision—1st, on the question, whether he is entitled, under the 14th section of the act entitled “An act to raise an additional military force,” passed January 11, 1812, to a pension from the 17th of September, 1814, the day on which he was wounded; and should the decision be adverse to his claim, he asks, 2d, for pay from the 30th of July, 1830, the date of the surgeon’s affidavit, which was filed in 1831.

In relation to these points, the Commissioner supposes four several questions to be involved, to which he wishes the attention of the Attorney General to be directed, and which I shall therefore proceed to answer in their order.

1. “Whether the 2d section of the act of the 15th of May, 1820, entitled ‘An act to revive and continue in force an act to provide for persons who were disabled by known wounds received in the revolutionary war, and for other purposes,’ has been properly interpreted by this department, in extending it to other than revolutionary cases?”

It appears from the records of this office, that the construction adopted and acted on by your department was officially given by the Attorney General, in his opinion on the case of Colonel Johnson, dated the 2d of July, 1822; and that it has been recognised and followed ever since that date, not only in your department, but by my predecessors in office.

As a general rule, I adopt the decisions of the office on points officially presented, without attempting to review the grounds on which those decisions proceeded; this being the course usually pursued by courts of justice, and being, indeed, indispensable to despatch of business, and still more so to uniformity of judgment. For the same reason, even where my attention is particularly called to a prior decision, and especially if it be one which was made by one of my predecessors, and which has been acquiesced in and followed for any length of time, I should yet feel myself bound, in ordinary cases, to adhere to it.

In the present instance, I have felt it my duty, in compliance with the distinct inquiry of the Commissioner of Pensions, to look with some care into the decision referred to. As the result of this examination, I am constrained to say that I have strong doubts as to the accuracy of the construction heretofore given to the act of 1820—so strong, indeed, that if the question were an open one, I should think it the safer and more equitable course to confine the law exclusively to the revolutionary cases.

Although I do not suppose that you will think it expedient, on the doubts now expressed, to reverse the practice which has hitherto obtained in your department; I yet think it due to General Ripley, whose claims may perhaps be urged in another place, to state some of the prominent reasons which induce me to distrust the accuracy and justice of the rule in question.

The second section of the act of May 15, 1820, is in the following words:

“*And be it further enacted, That the right any person now*

has, or hereafter may acquire, to receive a pension in virtue of any law of the United States, shall be construed to commence at the time of completing his testimony, pursuant to the act hereby revived and continued in force."

The first clause certainly favors the construction which has been given. "In virtue of any law of the United States," is a phrase of very extensive import; and if the section had ended with the word "*testimony*," there would have been nothing to restrain the generality of that phrase, and no doubt could have existed as to its construction.

But the section does not end with *that* word; it uses certain additional words, which form a very material part of the law, and to which it is our duty to give full effect in construing the provision. We have no right to reject them, nor to give them such a construction as to render them absurd or inoperative.

They carry us directly to the act of 1806, named in the title, and revived by the 1st section.

The testimony is to be completed "*pursuant*" to the act of 1806, named in the title, and revived in the body of the law. By referring to that act, it will be seen that it relates exclusively to persons who received known wounds in the revolutionary war; and that the 2d section prescribes very minutely the rules and regulations to be observed in substantiating claims intended to be preferred under it. The rules and regulations are, in their character, twofold: they determine the *fact* to be proved, as well as the *mode* or *means* of proof. The former is "decisive inability, the effect of a known wound or wounds received while in actual service during the revolutionary war;" the mode of proof is to be by affidavits of the commanding officers and surgeons, or others, and the examination, on oath, of the claimant.

Strictly speaking, the testimony cannot be completed *pursuant* to the act of 1806, unless it conform to that act in respect to the *fact* required to be proved, as well as in respect to the *mode* of proof. In revolutionary cases, this would certainly be deemed the effect of the word "*pursuant*." In this sense, it would be impossible for a person disabled during the war of 1812, to complete his testimony pursuant to the act referred to; and if this be the proper construction of the word "*pursuant*," then it will necessarily restrain the generality of the phrase "*any law*," used in the former clause, and compel us to limit the whole section to cases which arose in the revolutionary war. In the brief opinion of my predecessor, these latter words are not made the subject of comment, nor do they appear to have attracted his attention. This is evident from the opinion itself, which is in the following words: "On the subject of Colonel Johnson's pension, I cannot see how it can be withdrawn from the sweeping provision of the second section of the act of 15th May, 1820; which directs that all pensions in virtue of any law of the United States shall be considered to commence at the time of completing the testimony. This provision is so direct and so universal,

that the ground on which your doubts are founded is not discovered; and I should be glad to confer with you on the subject, before you act on this opinion."

Upon the construction which was thus given to the law, the word "*pursuant*," when applied to cases arising in the war of 1812, must be deemed to apply only to the *mode* of proof, and not to the *fact* to be proved; thus giving to one and the same word, in the same law, two different interpretations. This is sometimes done by the courts, when the necessity or justice of the case calls for such an accommodation of the language used by the lawgiver.

In the present instance, it seems to me that there is no adequate necessity for this unusual straining of the language; because, by construing the words "*any law*" to mean any law relative to revolutionary cases, the whole section is rendered consistent with itself.

This construction is also not only strained, but, in my judgment, it makes the law palpably unjust.

The act of January 11, 1812, declares that "if any officer, &c., *shall be disabled* by wounds or otherwise, while in the line of his duty in public service, he *shall* be placed on the list of invalids of the United States, at such rate of pension, and under such regulations as are, or may be, directed by law," &c. This act does not provide at what time the pension shall commence, except so far as such provision is included in the words "at such rate of pension," and "*under such regulations as are, or may be, directed by law*;" which words refer us (according to the opinion of the Attorney General in the case of General McNiel, dated May 31, 1832,) to the act of the 16th March, 1802—that being the only general law then in force applicable to the subject. The 14th section of the act of 1812 directs that the party disabled shall be placed on the list of invalids "*at such rate of pay, and under such regulations, as may be directed by the President of the United States for the time being*." The President, therefore, had the power to prescribe, by regulation, the time when pensions for disabilities under the act of 1812 should commence.

I cannot learn that any formal regulation on this point was ever made by the President until the 18th of April, 1829, when the President directed an order to be published, declaring that in future no person, while in the receipt of pay or emoluments as an officer of the army, should be placed on the pension list. The practice of the Pension Office had, however, from an early day, been governed by the same rule; which was expressly prescribed by the old Congress in the resolution of the 26th August, 1776, and in other resolutions of later date. This usage being kept up by the War Department, with the sanction of the President, before and at the enactment of the act of 1812, was, within the meaning of the law, a *regulation* directed by the President, and was, in effect, incorporated in it. All persons entering the army under that act were therefore bound to know that, if disabled, they could not receive pensions as invalids so long as they retained their places in the army, and received the pay and emoluments

thereof. But I am distinctly informed by the Commissioner of Pensions, that this was the only limitation imposed by the usage of the office, prior to the act of 15th May, 1820, on the payment of pensions for disabilities under the act of 1812; and that where the party left the army at the time he was disabled, the pension was considered as accruing from the date of the disability, no matter when the testimony was completed or produced. This being the case, all persons who entered the army under that law had good reason to expect that, if they should become disabled, they would be allowed pensions according to the nature of their disabilities, to commence from the time when they should cease to receive the pay and emoluments of the service. The contract between them and the government was not precisely to that effect, because it was subject to the contingency that the President might prescribe other regulations which might limit still further the commencement of the pension. But, as this power has not been exercised, the case may be considered as standing precisely on the same ground as though it had not existed.

Under these circumstances, it appears to me, that from the time when General Ripley was disabled by a wound received in the line of his duty, he had a just claim on the good faith of the nation to be placed on the pension list from the time when his pay and emoluments as an officer should cease. And according to the usage of the office, and to the only regulation which has been made by the President, touching the time from which the pension is to commence, if he had made his application at any time before the enactment of the act of the 15th May, 1820, he would have been allowed his pension from the time when his pay ceased, which I understand was in 1821. His right to such a pension was not, indeed, an absolute one; but it was founded on the pledge contained in the act of 1812, and fortified by considerations of the most interesting and impressive character.

The effect of the construction given by my predecessor to the law of 1820 was to take away this right; and, though it may be admitted that Congress had the power to do this, yet I think there can be little difference of opinion as to the harshness and injustice of such an exercise of legislative authority.

In regard to such revolutionary cases as might be presented under the act of 1820, there was no injustice in applying the rule given in the 2d section of that law, because all claims of that sort had been barred by lapse of time, even before the passage of the act of 1806—which act, as well as the act reviving it, had expired; and because that act also contained an express provision that every pension under it should “*commence on the day when the claimant shall have completed his testimony.*” This being the rule by which the pensions gratuitously proffered by the act of 1806 were to be governed, there could be no objection to repeating the same rule in reference to such cases (though it was probably unnecessary to have done so) in the act of 1820. But such a rule, when applied to cases arising under the act of 1812, which con-

tained nothing to warn parties of the necessity to make immediate applications, and under which a different usage had obtained up to the 15th of May, 1820, was, in my opinion, positively unjust; because it defeated the expectations which persons entering the service under the law of 1812 had a right to cherish; made no discrimination between cases of supine neglect and those of forced delay; allowed nothing for difficulties occasioned by sickness, loss of papers, or other unavoidable accident; and, above all, operated retroactively on the rights of parties.

It is a first principle in the interpretation of statutes, that, where the words are doubtful, such a construction is to be preferred as will be most consistent with the reason and justice of the case. This principle, I think, would have justified my predecessor in construing the 2d section of the act of the 15th May, 1820, as not extending to cases arising under the act of 1812; and, were I not restrained by the respect due to superior ability and learning, I would say that such a construction was demanded by that principle.

The action of Congress subsequently to the law of 1820 is also calculated to strengthen the doubts above expressed. That act revived the act of 1806 for one year only; but, by the act of the 4th of February, 1822, the act of 1806 was again revived for six years, and until the then next session of Congress; and by the act of the 24th of May, 1828, it was once more revived and rendered permanent. Each of these last named reviving acts repeats, *in hæc verba*, the 2d section of the act of the 15th of May, 1820. The repeated re-enactment of this provision is altogether inconsistent with the idea of its being a general or permanent provision; and shows that, in the judgment of the Legislature, it had expired with the expiration of the acts in which it was contained.

Upon the whole, I entertain, for the reasons above assigned, such strong doubts as to the accuracy of the interpretation heretofore given to the law in question, and so decided an opinion as to the injustice of the law itself, if the construction given to it is the correct one, that I cannot but hope that Congress may even now interfere in these cases, and carry back the pensions to the time when the disabled party ceased to receive the pay and emoluments of the service.

2. "Whether, under the peculiar circumstances in which the applicant was placed, the law was applicable to his case?"

The circumstances here referred to are the following:

In May, 1820, a large balance stood to the debit of General Ripley, in the accounting offices, for arrears of money received by him for disbursement during the war of 1812. Suits were subsequently brought against him, to recover such balance; he resisted the recovery, on the ground that he was not indebted to the United States, but on the contrary, that the United States were justly indebted to him; and, after various proceedings in the controversy, it was finally disposed of by a verdict in favor of the defendant,

which closed the account at the Treasury; and, according to the certificate of the jury, still left General Ripley a creditor of the United States to a large amount. Under these circumstances, he contends that, if the law of 1820 applies to other than revolutionary cases, it ought not to affect him; because, as he alleges, he was at the time, and ever after, until the closing of his account by the verdict in his favor, disqualified by law from drawing his pension; and, being so disqualified, the limitation contained in that act did not, and could not, run against him, until it ceased to exist.

The disqualification, on which this argument is founded, did not, so far as I can discern, exist until the 3d of March, 1823, when a provision was first introduced into the act "making appropriations for the military service of the United States for the year 1823," (which act included an appropriation for invalid pensioners,) prohibiting the payment of any money thereby appropriated to any person for his *compensation* "who is in arrears to the United States, until such person shall have accounted for, and paid into the Treasury, all sums for which he may be liable," &c. This prohibition was for several years incorporated in the general and other appropriation bills; and in 1828 was enacted as a permanent law, by the act "to prevent defalcations on the part of disbursing agents of the Government, and for other purposes," approved January 25, 1828. This inhibition, in my opinion, extends to the case of an invalid pensioner; and it must, therefore, be conceded that, from March, 1823, until the balance standing against General Ripley on the books of the Treasury was extinguished, he was disqualified to draw his pension, even had it been previously allowed to him. It is also true, as a general rule, that statutes of limitation do not run against persons disqualified by infancy, interdiction, or any other cause, to enforce their claims; all such cases being usually excepted from the statutory bar. But it does not appear to me either that the act of 1820 can with propriety be regarded as a limitation law; or, if such be its true character, that the case of General Ripley can be brought within the principle of the exceptions above stated. The statute does not attempt to prescribe the time within which the claim is to be preferred; nor did the disqualification under which General Ripley labored prevent him from making or establishing his claim. He might have preferred and established it; and, although no money could have been paid thereon until the balance standing against him was extinguished, yet, on the closing of his accounts, he would have been entitled to receive all that had accrued during the interval, and to be regularly paid thereafter. If, then, the 2d section of the act of 1820 applies to this case, I must be considered as answering the present question in the negative.

3. "Whether the rule which declares that the evidence is complete only when the papers are duly *authenticated*, and all objections to the claim cease, is conformable to the spirit of the law?"

The accuracy of the rule being thus called into question, I think

it my duty to state my views on the subject, although the rule itself is in entire conformity to the second opinion of the Attorney General in the case of Colonel Johnson, dated the 19th of July, 1822, which opinion was the result of a very mature consideration; and although it has also been adopted in the President's regulation of the 18th of April, 1829.

The first section of the act of the 15th of May, 1820, refers us to the act of the 10th of April, 1806; and whatever would complete the testimony under that act must certainly be sufficient. Now, the second section of the act of 1806 expressly prescribes the rules and regulations which are to be complied with in substantiating claims. They consist of certain proofs to be made by affidavits before the judge of the district, or one of the judges of the Territory in which the claimant resides, or before some person specially authorized by commission from said judge; and after the proofs have been duly submitted to the proper judge or commissioner, he is to "certify, in writing, his opinion of the credibility of the witnesses whose affidavits he shall take, in all those cases where it is said the proof shall be made by a credible witness or witnesses; and, also, that the examining physician or surgeon is reputable in his profession." The third section provides that the judge or commissioner shall transmit a list of such claims, accompanied by the evidence, affidavits, certificates, and proceedings had thereon, "noting particularly *the day on which the testimony was closed before him*," to the Secretary of War, &c. And the fourth section of the same act of 1806 declares "that every pension, or increase thereof, by virtue of this act, shall commence on the *day when the claimant shall have completed his testimony before the authority proper to take the same*." Under the act of 1806, it is therefore manifest that the date of the last affidavit, or last oral examination on oath, before the judge or commissioner, was the true date from which the pension was to commence; and as this rule is referred to and adopted by the act of 1820, I do not see how any other formality, not required by the act "thereby revived and continued in force," can be made the test of the completing of the testimony "*pursuant*" to the act. If further evidence be necessary to *authenticate* the proceedings, the President, or the Secretary of War acting under his authority, may undoubtedly require it; and so far the President's regulation of the 18th of April, 1829, may be regarded as perfectly consistent with the act of 1820. But I am clearly of opinion that the rule referred to in the question I am considering, and the opinion on which it was originally founded, and the regulation by which it is now continued, *so far as they postpone the commencement of the pension to any day later than that on which the testimony was closed before the officer taking it*, is repugnant, not only to the spirit, but to the express words of the act of 1820.

The remaining question proposed by the Commissioner is fully met and disposed of by the conclusion just expressed.

To the SECRETARY OF WAR.

B. F. BUTLER.

[49.]

PRIVATEER PENSIONS.—Present opinion is relinquished and withdrawn in deference to previous opinion, and usage of the department, viz: 1. That a pension shall be allowed as a vested right, when one has lost his life while in the line of his duty on board a private armed vessel of the United States. 2. That in case the deceased leave a widow, who intermarries or dies without having claimed her right to a pension, her second husband or legal representatives are entitled to the amount accruing from the death of her deceased husband till her second marriage.

ATTORNEY GENERAL'S OFFICE, *April 5, 1836.*

SIR: The claimant referred to in your letter of the 25th January last, (on whose case I expressed an opinion adversely to his claim, by my letter of the 9th of February,) having suggested to me that he had reason to believe that a different decision had been made by one of my predecessors, I withdrew my letter from your department, a few days since, for the purpose of re-examining the subject.

Supposing, when I received your communication, that the question proposed to me was one which had never been considered in this office, nor affected by any usage in your department, I gave to it such a reply as the language of the navy pension laws seemed to me to require. I cannot say that my own impressions, as to the intent of Congress in the enactment of those laws, is changed by any subsequent reflection bestowed upon them; but, on a diligent examination of the records of the office, I have found an opinion which takes an entirely different view of the subject, and which appears also to be supported by the usage of your department—on which, indeed, it was very much founded. And as I am not only very willing to yield my own impressions, on a question of this nature, to such authority, but, indeed, think it due to consistency of administration and the rights of parties that I should do so, I beg leave to recall the decision heretofore given, and to apply to the case the principles thus established or confirmed by my predecessor.

The case stated in your letter of the 26th January is as follows: "During the late war with England, an individual was killed on board of a private armed vessel of the United States, in an action with a British ship. His widow did not apply for a pension. She married again; but the second husband, during her life, did not prefer the claim. After her death, he demanded the pension from the date of the first husband's death to the time of the second marriage. The woman had no children."

On this case you inquire, 1st, Whether a pension shall be paid? and, if so, 2d, Who is the proper person to receive it?

The opinion of the Attorney General dated the 9th of June, 1825, and transmitted on that day to the Secretary of the Navy, settles the first of these questions in the *affirmative*.

In that case, as in the present, a person had lost his life during the late war, while in the line of his duty on board a private armed vessel. He left a widow and children under the age of sixteen. No application for a pension was preferred until 1825,

before which time the widow had intermarried. After her remarriage, she applied for a pension on behalf of her children, (some of whom were under sixteen,) and, also, for the portion of the pension between the death of her first husband and her second marriage. The Attorney General, in an elaborate opinion, in which he stated the provisions of the laws, and the practical construction which he understood they had received in the Navy Department, decided that the widow had a *vested and perfect* right to the pension during her widowhood, and that her right to receive it for that period was not affected by her subsequent marriage.

The precise point now presented was not, indeed, submitted for decision in that case; but the principal laid down by the Attorney General, and the reasoning of his opinion, are equally applicable to the present claim, as you will perceive on referring to the opinion, which, I take for granted, may be found on the files of your department. Indeed, he puts, by way of illustration, the very case involved in your question, and speaks of it as having been settled by the practice of the department. "I understand," says the opinion, "that even where the widow has intermarried before she has made any application, *or has died before she has made any application*, the uniform practice of the department has been, not to consider the application too late for all that was due at the time of *her* intermarriage or *death*, the department having heretofore considered *that* as having been *done which ought to have been done*." And he proceeds to express his approbation of the practice as conformable to the spirit and design of the law. For a fuller exposition of the grounds on which the opinion of my predecessor was founded, I beg leave to refer you to the document itself.

Your second question must be solved by applying to the present case the rules of law in regard to the right of the husband in the property of his wife, in force in the State where the parties resided at the time of his wife's death. By the law of England, the husband, if he survives his wife, is entitled to administer on her estate, and to recover all debts due to her at the time of marriage, and all her other outstanding choses in action, for his own use, subject only to his liability for debts contracted by her whilst a *femme sole*, to the extent of the assets received by him. This is the general rule in the American States; though in Maryland, and perhaps in some other States, the husband has been relieved from the necessity of taking out letters of administration.

B. F. BUTLER.

To the SECRETARY OF THE NAVY.

[50.]

NAVY PENSIONS—The following opinion adopts that of Mr. Wirt, of the 9th June, 1825, in relation to widows of officers and seamen of the privateer service, and applies it, with scarcely a variation, to widows of officers, seamen, &c., of the navy; consequently, the abstract of the former, [23] p. 354 will equally apply to this.

ATTORNEY GENERAL'S OFFICE, April 5, 1836.

SIR: In your letter of the 10th of February last, you state that on the 18th of May, 1815, Benjamin White, master-at-arms in the navy of the United States, died in consequence of a fall through the hatchway of the United States ship Ontario, leaving a widow, who now for the first time claims a pension. I infer from your letter, (though the facts are not distinctly stated,) that Mr. White was killed in the line of his duty, and also that Mrs. White has not been married since her husband's death.

After referring me to various acts of Congress applicable to the subject, you request me to inform you "whether, in my opinion, the benefits of these laws ought to be now extended to Mrs. White; and if not, whether she is entitled to any pension; and if entitled, at what time the pension should commence, and for what period should it be allowed?"

The acts of Congress in relation to navy pensions are so numerous and intricate, that I have found it a task of no little labor and difficulty to extract from them a satisfactory reply to your queries; especially as I find, on a careful examination of the records of this office, that many of their provisions have, from time to time, been referred to this office for construction, and that, on several of those occasions, the decision appears to have been founded rather on the usage of your department than on the language of the Legislature.

To secure uniformity of judgment, and conform, as far as I can, to the practice which has heretofore obtained in analogous cases, I shall take up the case of Mrs. White at the date of her husband's death, and, by the aid of the decisions made by my predecessors, endeavor to dispose of it in accordance with the principle of those decisions.

On the 18th of May, 1815, the only laws applicable to the subject were the acts of the 13th of February, 1813, and the 4th of March, 1814.

According to the construction given to the act of 1813 by the Attorney General, in his opinion of the 31st of March, 1825, it embraces every case of an *officer killed in the line of his duty*, whether killed in battle or by *casualties*; and the case of Benjamin White was therefore within it, provided he is to be considered as an *officer*—for the act does not extend to seamen. I am by no means certain that a *master-at-arms* is an *officer of the navy*, within the meaning of the act of the 20th January, 1813. In the acts of Congress then in force, he was called and treated as a *petty officer*, as contradistinguished from *seaman*. I am, therefore, inclined to think he was an *officer* within the act of 1813, and that his widow was, accordingly, entitled to the benefits of that

law; but, as this is a question which belongs rather to the naval service than to this office, I shall not express a positive opinion thereon.

If the act of February, 1813, did not embrace this case, then Mrs. White, *at the time of her husband's death*, was not entitled to any pension; because the act of the 4th of March, 1814, as expounded in the above-cited opinion, was confined to persons *slain* by wounds; and so far as *officers* are concerned, its provisions were entirely retrospective—covering those cases, and those only, in which officers *had been slain* in the line of their duty, between the 18th of July, 1812, and the date of the law.

According to the construction thus given to these two acts, White, if an *officer*, was embraced in the act of 1813, and not in that of 1814; but, if not an officer, he was not embraced in either; not in the act of 1813, because that act is confined to *officers*; and not in that of 1814, because that is confined to persons *slain*, and did not extend to deaths by casualties.

But it is to be observed, that the act of the 4th of March, 1814, was subsequently extended, by the amendatory act of the 3d of March, 1817, so as to include *officers* as well as *seamen* in all cases, and so also as to include deaths by disease and casualties; and that, under this amendatory act, Mrs. White would have been entitled to a pension, whether her husband be considered as an *officer* or a *seaman*. It is true that the amendatory act of 1817 was repealed by the act of the 22d of January, 1824, but with a saving of pensions already granted, and of all rights accrued under it.

So much, then, may be considered as certain, viz: that Mrs. White, provided her husband be regarded as an *officer*, was entitled, under the act of 1813, at her husband's death; and if not an officer, then under the act of the 3d of March, 1817, from the date of that act, to the ordinary pension of five years' half-pay.

Then comes the act of the 16th of April, 1818, in addition to the act of the 4th of March, 1814; but, as both sections of this law relate exclusively to persons who served in *private armed ships*, they have no bearing on the present case, and may be laid out of view.

Next in order of time is the act of the 3d of March, 1819, extending the term of half-pay pensions previously granted by law to the widows and children of certain officers, seamen, and marines, who had been killed or died in the naval service, *for an additional term of five years*. But this act did not apply to Mrs. White's case, whether her right be regarded as commencing under the act of 1813, or under that of 1817; because it is expressly confined to the cases of persons killed or dying "*during the late war*;" and White was killed in May, 1815, after the termination of the war. The same remark must be made as to the act of the 22d of January, 1824, "further extending the term of half-pay pensions," &c.; the acts of the 9th of April, 1824, or the 26th of May, 1824, (which are, moreover, confined to private armed

ships;) and the 1st section of the act of the 23d of May, 1828, "extending the term of certain pensions chargeable on the navy and privateer pension funds."

But the act of the 28th of June, 1832, "further to extend the pensions heretofore granted to the widows of persons killed, or who have died, in the naval service," is not confined to cases which occurred during the war. It provides "that, in all cases where provision has been made by law for the five years' half-pay to widows and children of officers, seamen, and marines, who were killed in battle, or who died in the naval service of the United States; and, also, in all cases where provision has been made for extending the term of five years, in addition to any term of five years, the said provision shall be, and is hereby, further extended for an additional term of five years, so far as respects widows only; to commence at the end of the current or last expired term of five years, in each case respectively."

This latter act embraces the case of Mrs. White, and adds five years to the five years before allowed by act of 1813, if her husband was an officer; and by that of 1817, if he be regarded as a seaman merely: thus making the pension equal to ten years' half-pay.

The last act to be referred to is that of the 30th of June, 1834, which provides, among other things, that all the provisions and benefits of the act of the 28th of June, 1832, "be continued for another term of five years, to all those widows who have *heretofore* had the benefit of the same."

Having thus collected and examined the various statutes by which, as I suppose, the case must be determined, I proceed to inquire whether the benefit of these laws, or any of them, ought now to be extended to Mrs. White.

I find this question substantially answered by the opinions of my predecessors. In an opinion dated the 9th of June, 1825, and transmitted under that date to the Secretary of the Navy, the Attorney General speaks of the rights acquired by the widow under the 1st section of the act of March 4, 1814. Here is a certain right which the law says shall accrue to the widow on the happening of a certain event—that of her husband having died by reason of a wound received in the line of his duty on board of a private armed vessel. The law does not require either that an application should be made by her, or that any thing else should be done in order to consummate her right. It is consummated by the mere fact of the death of her husband under the circumstances already mentioned. It is a vested right to so much money *per annum*, for five years—subject, however, to be discontinued and defeated by her death or marriage at any time within that term; but a vested and perfect right during the time that she continued to live the widow of the deceased husband, and not defeated by her subsequent intermarriage, except from the time at which such intermarriage takes place.

Such I understand to have been the uniform practice under

this act, ever since its adoption; and I confess that I see no reason for changing the practice. Although the foregoing observations were made in reference to a case arising under the 1st section of the act of 1814, (which section relates to *private armed ships*,) the principle laid down by the Attorney General is equally applicable to other cases.

He also says that the right of pension does not depend on the *necessities* of the parties. "It is given to the widows and children of officers and men, of rich and poor, without regard to their circumstances. It is in the nature of an absolute engagement or promise made to those officers and men, that if they fall in the service of their country, so much shall be paid to their wives and children, without inquiry into the fact whether they stand in need of it or not. Nor is there any condition annexed to the promise, that the money shall be paid *if applied for in a given time, or in a given state of things*. It is bottomed only on the single condition that the husband and father shall die in the service of his country; on the happening of which condition, the public engagement becomes a *debt*, which is as much *property*, and the property of the widow and children, as any bond which the deceased may have left to them by his will."

He therefore affirmed the validity of the practice which had obtained, as then stated to him, in the Navy Department.

In accordance with these views, I am therefore of opinion that Mrs. White is now entitled to receive the pension for five years, secured to her by the act of 1813, or by the act of 1817, as you may decide in respect to the class to which her husband belonged—(in the first, the five years will have ended the 18th of May, 1820; in the latter, on the 3d of March, 1822;)—and also for the additional five years given by the act of 1832.

In an opinion dated the 27th of October, 1832, and transmitted to the Secretary of the Navy, the Attorney General decided that the act of June 28, 1832, embraced in its provisions the widows of the different classes therein mentioned; "and that the pension of the widow, in each case, is to commence at the end of the *current or last expired term of five years*." The five years added by this law will therefore have expired, in the one case, on the 18th of May, 1825; and, in the other, on the 3d of March, 1827.

In regard to the law of June, 1834, my first impression was that it did not include Mrs. White's case; because it seemed to me, on a cursory examination of the act, that "*she had not therefore had the benefit*" of the act of the 28th of June, 1832. But, on further reflection, I am inclined to think that Congress, by those words, meant merely to require that the widow should be one *who was embraced within the law of 1832, and therefore entitled to its benefits*; and who, in that sense, might be said to have "*had the benefit of the same*;" and that they did not intend to make the actual receipt and enjoyment of the pension prior to the 30th of June, 1834, a condition precedent to the operation of the act of that date. I am confirmed in this opinion by another point adopted

and decided by the Attorney General in the opinion of the 9th June, 1825, before referred to. He remarks, in reference to the language of the acts of the 16th of April, 1818, and the 9th of April, 1824, extending pensions previously granted, (the first of which extending acts is confined to cases "where a person *has been put on the pension-list or granted a certificate of pension*," under the former law; and the other of which is confined to the "pensions of persons *who now are in the receipt thereof*,") that he understands, "If a widow, whose rights commenced under the act of 1814, now, for the *first time*, makes an application for her pension under *all* the past acts, no difficulty arises to her now receiving all that these acts give her, provided that she still remains the widow of the deceased. I understand, also, that even where she has since intermarried before she has made any application, or has died before she has made any application, the uniform practice of the department has been not to consider the application too late for all that was due at the time of her intermarriage or death; the department having heretofore considered that as having been done which ought to have been done. It is a liberal exposition of these acts, in advancement of the public policy on which they were founded; and I see no sufficient cause to disturb it by recommending a change."

The language of the act of 1834 is certainly not so strong as that used by either of the acts first referred to; and I have, therefore, the less hesitation in applying the principle of the above extract. This will add another term of five years, to commence from the passage of the act of 1834.

The result, then, is, that according to the laws, usages, and decisions above stated, Mrs. White is entitled to a pension of *ten* years prior to the act of the 30th of June, 1834; and, under the latter act, to a pension of *five*, to commence from the day of the passage thereof.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[51.]

PENSIONS WITHHELD.—The act of the 20th May, 1836, explanatory of the act of the 25th January, 1828, to prevent defalcations, &c., places pensioners on the same footing as if the latter act had never passed; any pensions withheld on account of that act should be refunded.

OFFICE OF THE ATTORNEY GENERAL, *June 27, 1836.*

SIR: It appears from the communication of the Commissioner of Pensions, enclosed in your letter of the 25th instant, that doubts have arisen as to the meaning of the act of the 20th May, 1836, explanatory of the act entitled "An act to prevent defalcations on the part of the disbursing agents of the government, and for other purposes;" and that my opinion is, therefore, desired on the following questions: "Shall the amount heretofore withheld from a pensioner under the act of the 25th of January, 1828, be re-

funded? And, if not, at what time shall the explanatory act take effect?

In answer to these inquiries I have the honor to state that, in my opinion, the intention of Congress in enacting the explanatory law of the 20th of May, 1836, was to place the claims and rights of pensioners on precisely the same footing as if the act "to prevent defalcations," &c., had never been passed; and, consequently, that all moneys due to pensioners, which have been, and yet are, withheld under the construction heretofore given to that law, and for that reason only, ought to be refunded to them. The explanatory law takes effect from its date; but its operation, in the respect above mentioned is, in some sense, retrospective.

To the SECRETARY OF WAR.

B. F. BUTLER.

[52.]

PENSION WITHHELD AND PENSION RESTORED.—A larger pension formerly paid, not contemplated to be deducted from, or to merge a smaller one subsequently granted.

2. The restoration of a pensioner by law affirms his right to the pension withheld, which should not be deducted from a pension subsequently granted, if not especially required by law.

OFFICE OF THE ATTORNEY GENERAL, *July 6, 1836.*

SIR: I have examined the two cases stated by the Commissioner of Pensions in his letter of the 2d instant, enclosed to me by your note of yesterday, and have the honor to state that, in my opinion, no deductions ought to be made from the amounts payable under the laws referred to by the Commissioner.

In the case of *Daniel Trabue* the pension allowed by the law for his relief is only twenty dollars per annum; and it is, therefore, manifest that Congress could not have intended that the sums heretofore paid him at the rate of \$260 per annum, and amounting in the whole to \$1,170, should be deducted.

In the case of *Daniel Cobb* the law provides that he be *restored* to the roll of revolutionary pensioners, and that payment shall only commence "from the time *he was last paid his said pension.*" This language shows, I think, that Congress intended to affirm the right of Cobb to the pension paid him by the department, and leaves no reason to suppose that they could have intended that previous payments should be deducted.

To the SECRETARY OF WAR.

B. F. BUTLER.

[53.]

ORPHANS' PENSIONS.—If the widow had married before the passage of the act of 4th July, 1836, the orphans, in her stead, are entitled to the benefit of the act.

OFFICE OF THE ATTORNEY GENERAL, *August 3, 1836.*

SIR: In answer to the question proposed in the communication of the acting Commissioner of Pensions, enclosed in your letter of

the 26th ultimo, I have the honor to inform you that, in my opinion, where a soldier embraced in the 1st section of the act of the 4th of July, 1836, has died, leaving a widow and children, and the widow has married before the passage of the act, the children, within the equity of the law, and by a liberal construction of its provisions, are entitled to its benefits.

To the SECRETARY OF WAR.

B. F. BUTLER.

[54.]

HALF PAY OF OFFICERS OF THE VIRGINIA LINE AND NAVY.—1. In those cases of vested rights, by the gratuity of law, executors and administrators, if duly constituted, are entitled to collect the same as debts due to their testators or intestates, without proving that there are heirs or creditors, but subject to their liabilities to such creditors and heirs, if there be any; and, if there be none, then subject to the other consequences of the local laws applicable to such cases. 2. Contests between executors and administrators, in such cases, would be determined by the superior authority from which either derived his appointment.

ATTORNEY GENERAL'S OFFICE, *October 24, 1836.*

SIR: In your letter of the 36th of August, you asked my opinion on several questions which had arisen upon a claim presented under the act of July 5th, 1832, in the case of Charles Fearer, submitted to you by the Commissioner of Pensions.

1. The first question is as follows: "Is the department bound to pay the money in this case, without there being exhibited due proof of the existence of an heir or a creditor, proved to be such according to the regulations of this department and the laws of Virginia?"

In reply to this question, I have the honor to state that, in my opinion, the act of Congress confers no authority on the department to require, from a duly constituted executor or administrator, proof of the existence of an heir or creditor. The 3d section of the act of July 5th, 1832, is in the following words: "*And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, directed and required to adjust and settle the claims for half pay of the aforesaid regiments and corps, which have not been paid or prosecuted to judgment against the State of Virginia, and for which said State would be bound on the principles of the half pay cases already decided in the supreme court of appeals of said State; which several sums of money herein directed to be settled or paid, shall be paid out of any money in the Treasury not otherwise appropriated by law." It is true that this section does not provide, like the second, that payment shall be made to the officers "*or their legal representatives*;" and the opinion given by me on the 4th of March last is not technically applicable. But the same principle must be applied, because no other provision is made; although it must have been perfectly well known to Congress that in many, and probably in most cases, the officers originally entitled were dead. The moneys payable under the 3d section, like those to be paid under the sec-

ond, are therefore to be paid to the officers, "*or their legal representatives*;" and those representatives, when the officer is dead, are his *executors or administrators*, as declared by me in the opinion before referred to. The principles on which their claims are to be adjusted, settled, and paid, are those on which the half pay cases decided by the court of appeals of Virginia *prior* to the passage of the act had been so decided. This being a positive direction, we have no right to look out of those cases; and as the court of appeals did not attempt to impose, as a condition to the plaintiff's right of recovery, when the suit was brought by an executor or administrator, the burden of showing that there was an heir or a creditor, the department has no such power. The law of Virginia referred to by the Commissioner was passed on the 14th of February, 1833, and had reference only to those cases in which the amount of the claims had been paid by the United States to the State of Virginia. That State having received the money into the treasury, it could not be paid, except by virtue of an act of her Legislature; and that body had the power to impose any condition it pleased. But the court of appeals had no power to impose any other condition than such as was required by the original law promising the half pay. So far as regarded that court, therefore, the rights of executors and administrators were, in this case, like their rights in other cases: if duly constituted, they are entitled to collect debts due to their testators or intestates, without proving that there are heirs or creditors, but subject to their liabilities to such creditors and heirs, if any there be; and if there be none, then subject to the other consequences, whatever they may be, of the general local law applicable to such cases.

2. The Commissioner inquires "if, in this case, the Government is bound to pay the money without an heir or creditor appearing, would the department, under the circumstances, be bound to pay the administrators, without satisfactory proof that the executors could not legally claim the same?"

This question is proposed in consequence of the claimants in this case being administrators *de bonis non* with the will annexed. They have produced due proof to show that they were appointed such administrators by a court of competent jurisdiction; and it is, therefore, to be presumed by the department that all facts necessary to such a procedure were duly established before that court. I am accordingly of opinion that the department has no right to require any further proof.

To the SECRETARY OF WAR.

B. F. BUTLER.

[55.]

WIDOWS AND ORPHANS OF ARMY OFFICERS, &c.—Pensions granted by the 1st section of the act of 4th July, 1836, are to commence from the death of the party serving, in all cases where the death has occurred anterior to the date of the act; and the same section embraces widows and orphans whose husbands and fathers may *thereafter* die in service.

ATTORNEY GENERAL'S OFFICE, Oct. 24, 1836.

SIR: In answer to the questions proposed by the Commissioner of Pensions, on the 1st section of the act of the 4th of July, 1836, granting half pay to widows and orphans, I have the honor to reply as follows:

1. In my opinion, the pension granted by this section is to commence from the day when the bill was approved and became a law, as to all cases in which the death of the party serving had occurred anterior to that day; and, in all subsequent cases, from the time of the death of such party. Pension laws, drawn in the form used in this law, have usually been regarded in this office as vesting in the widow or children (as the case may be) a legal right to a pension from the day of the death of the husband or parent; but, as this is a new law, it cannot have the effect to give such a right for any time anterior to its passage.

2. As already intimated, I think the 1st section embraces the cases of widows and orphans whose husbands and fathers may hereafter die in the service, as well as those who had died before the passage of the law.

To the SECRETARY OF WAR.

B. F. BUTLER.

[56.]

WIDOWS AND ORPHANS OF NAVY OFFICERS, &c.—If an officer, seaman, or marine, (a purser being considered an officer in the navy,) has died before the passage of the act of the 3d March, 1837, and left a widow, who was living at the time the act was passed, she would be entitled to a pension under that act, if she did not marry again before the passage of the act, as such marriage estops her coming within the benefit of the act; but if she did so marry, and the decedent left children (living at the date of the act) they would be entitled, from the death of the father, till 21 years of age.

ATTORNEY GENERAL'S OFFICE, April 7, 1837.

SIR: In answer to the questions arising in the case of the late widow and of the children of Purser Timberlake, referred to in your letter of the 27th ultimo, I have the honor to inform you that, after due consideration of the act of 3d of March, 1837, "for the more equitable administration of the navy pension fund," I am of opinion—

1. That to entitle a woman, as the *widow* of an officer, seaman, or marine, to the pension given by the law, she must have remained in a state of widowhood. The party serving must die *leaving a widow*; and it is "*such widow*"—that is, the *widow left by the decedent*, and the widow of the decedent—who is entitled. Mrs. Timberlake, having remarried, has died before the claim no benefit under the act.

2. That where the decedent has left a widow and children, and the former has married before the passage of the act, the children, within the equity of the law, and by a liberal construction of its provisions, are entitled to its benefits. I am accordingly of opinion that the children of Purser Timberlake are entitled to the half pay granted by the first section of the act, from the death of their father, to cease on their death, or on their attaining the age of twenty-one years.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[57.]

WIDOWS AND ORPHANS OF NAVY OFFICERS, &c.—A navy agent is not “an officer, seaman, or marine,” in the sense of the act of 30th June, 1834, concerning “naval pensions and the navy pension fund;” therefore his widow is not entitled to a pension under that act.

OFFICE OF THE ATTORNEY GENERAL, *April 7, 1837.*

SIR: In answer to the question proposed to me in relation to the case of Mrs. Tutt, by your letter of the 2d of February last, I have the honor to inform you that, in my opinion, the widow of a navy agent is not entitled to a pension under the act of the 30th of June, 1834, “concerning naval pensions and the navy pension fund.” The law extends only to the “widows of *officers, seamen, and marines*, who have died in the naval service since the 1st of January, 1824,” &c. Navy agents are neither officers, seamen, nor marines; nor are they in the *naval service*, within the meaning of the law. The case mentioned by Mrs. Tutt, of a pension granted to the widow of a *porter* at the navy-yard at Portsmouth, is explained by the fact stated in your letter, viz: that the individual referred to, though acting as a *porter* at the time of his death, was yet entered and borne on the books as a *seaman*. It was this latter circumstance, and this only, which entitled his widow to a pension.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[58.]

WIDOWS AND ORPHANS OF NAVY OFFICERS, &c.—The last clause of the opinion, [56.] ante, given three days before the following, anticipated in the affirmative the answer here given in relation to the title of the children of the deceased, again propounded by the Navy Department.

ATTORNEY GENERAL'S OFFICE, *April 10, 1837.*

SIR: It appears from your letter of the 30th ultimo, that Miss Catharine A. Grennell, daughter of S. H. Grennell, sailingmaster, was paid a pension under the act of the 3d of March, 1817, until she arrived at the age of sixteen years; that she is now more than twenty-one years of age; and claims five years' additional pension, so as to make the term of twenty-one years, supposed to be authorized by the act of 3d March, 1837, “for the more equitable administration of the navy pension fund.”

On this claim you ask my opinion. The act of the 3d of March, 1837, was passed for the purpose of securing a more uniform and equal distribution of the navy pension fund. It introduces several new principles; and, among others, establishes as an equitable rule, that where a pension is granted to the *children*, it ought to continue until they attain the age of twenty one years. As the act is not only prospective, but retrospective in its operation, I think it equitable in itself, and fully warranted by the liberal construction which should be given to such a law, to pay to those children, whose pensions expired under former laws at an earlier age than twenty-one, the half pay for the balance. I am accordingly of opinion that the claim of Miss Grennell is authorized by the late act.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[59.]

WIDOWS AND ORPHANS OF NAVY OFFICERS, &c.—If an officer, seaman, or marine, has died before the passage of the act of the 3d March, 1837, and left a widow who has also died before the passage of said act, her representatives are estopped by her death from coming within the benefit of the act for the previous term of her widowhood—being co-ordinate with the disqualification of previous remarriage; but if the decedent left children (living at the date of the act,) they would be entitled from the death of their father till 21 years of age, according to opinion [56]

ATTORNEY GENERAL'S OFFICE, *April 11, 1831.*

SIR: In your letter of the 29th ultimo you state the following case:

"The widow of Captain Alexander Murray, of the United States navy, survived him several years, and died his widow, without having received a pension on account of his death. The legal representative of Mrs. Murray now claims the pension for the period she remained a widow, under the act of 3d of March, 1837." On this claim you ask my opinion.

In reply, I have the honor to inform you, that, as Mrs. Murray died before the passage of the act under which the claim is made, I am of opinion no right to any of the benefits granted by that law was vested in her, to be passed to her representative. In similar cases arising under the general pension law of the 4th of July, 1836, I had occasion to adopt this principle; and, though many considerations may well be urged in favor of extending the law so as to reach these cases, yet it is only to Congress that they can properly be addressed.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[60.]

WIDOWS AND ORPHANS OF NAVY OFFICERS, &c.—See opinions [56.] [59.] for the principles reiterated here.

OFFICE OF THE ATTORNEY GENERAL, *April 11, 1837.*

SIR: In reply to the questions proposed to me by your letter of

the 15th ult., in the case of the late widow and of the children of Alexander Fisher, I have the honor to state, that, in accordance with the opinion already expressed in the case of the widow and children of Purser Timberlake, the widow of Mr. Fisher having intermarried, *is not*, and the children *are*, entitled to the pension granted by the act of the 3d March, 1837.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[61.]

WIDOWS AND ORPHANS OF NAVY OFFICERS, &c.—See opinions [56,] [59,] for the principles reiterated here.

ATTORNEY GENERAL'S OFFICE, *April 11, 1837.*

SIR: In your letter of the 15th ultimo you state the following case for my opinion: "George Hodge, boatswain, died in the naval service in 1820, leaving a widow, who died in 1835, and children who are now more than 21 years old, but who had not arrived at that age at the time of his death. Miss Eliza Hodge, one of the children, now claims a pension under the law of 3d of March, 1837."

In accordance with the rules of interpretation which I have applied to this law in other cases, I am of opinion that the children of Mr. Hodge, who were under the age of 21 years at the time of his death, will be entitled to the pension provided by the act, from the time of his death until they arrived at the age of 21 years, provided the widow did not receive a pension for any part of that time. If she did, then the payment to them must commence from the time when her pension ceased.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[62.]

WIDOWS AND ORPHANS OF NAVY OFFICERS, &c.—See opinions [56,] [59,] for the principles reiterated here.

ATTORNEY GENERAL'S OFFICE, *April 11, 1837.*

SIR: In answer to the question proposed in your letter of the 24th ult., I have the honor to inform you, that, as Captain Joseph Bainbridge left no widow, but left an only child, then under the age of twenty-one, who is yet living, though now over that age, I am of opinion that such child is entitled to a pension, under the act of the 3d of March, 1837, from the death of her father to the time when she attained the age of twenty-one. This result is in accordance with the rules already settled by me in the interpretation of this law.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[63.]

NAVY PENSIONS.—A specific pension granted to an individual, counteracts the claim of the same individual to a pension under the general provisions of an act passed on the same day ; unless an election is made by the claimant to take the one and relinquish the other.

ATTORNEY GENERAL'S OFFICE, *April 11, 1837.*

SIR : I have had the honor to receive your letter of the 15th ultimo, relative to the case of Mrs. Susan Decatur.

It is assumed in your statement of the case, that Mrs. Decatur would be entitled to the pension granted by the act of the 3d ultimo, "for the more equitable administration of the navy pension fund," were it not for the doubt created by the passage, on the same day, of the joint resolution for her special benefit. And, on these two laws, you inquire whether she is entitled under the resolution, or under the act, or under both ?

This case differs from that of Mrs. Perry, referred to in the note of Mrs. Decatur, accompanying your letter, inasmuch as the law under which Mrs. Perry ultimately obtained her pension was in existence at the time of his death ; at which time she was also entitled (although not then aware of the fact) to its benefits. I held, in her case, that the law granting her *annuity* (for such it was called) could not deprive her of a pension given by a pre-existing law ; and that, as Congress were presumed to be acquainted with the laws in force, the legal intendment must be that the annuity was designed as an additional provision, and, consequently, that she was entitled to both.

After maturely considering the history of the general and special provisions on which the present case depends, I am of opinion that but *one* pension can be allowed ; but if the general provision includes the case of Mrs. Decatur, then I am of opinion she is entitled to take under that provision, or under the joint resolution, at her election.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[64.]

WIDOWS AND ORPHANS OF NAVY OFFICERS, &c.—See opinions [55.] [59.] for the principles reiterated here : But grandchildren are excluded.

ATTORNEY GENERAL'S OFFICE, *April 12, 1837.*

SIR : It appears from the papers enclosed in your letter of the 8th instant, that Commodore Samuel Barron died in the year 1810, leaving a widow and two children (a son and daughter) of tender age ; that his widow died in 1818 ; that the son, Lieutenant Barron, of the navy, is yet living, and is now 28 years of age ; that the daughter died in 1821, being then 23 years of age, leaving one child, (a daughter,) who is yet living, and now the wife of G. W. Camp ; and that the son and granddaughter now claim a pension under the act of the 3d of March last, "for the more

equitable administration of the navy pension fund." On the validity of this claim you ask my opinion.

In accordance with the decisions already made on this law, I am of opinion that the son of Commodore Barron will be entitled to one-half of the pension given by it from his father's death to the death of his sister; and to the whole pension from that time to the time when he arrived at the age of 21 years; provided (as I presume was the fact) no pension was received by his mother. On the other hand, it is evident that Mrs. Camp, the granddaughter, is not entitled by the terms of the law; because the pension, in the event of there being no widow, is confined to the *children* of the decedent; and, when received by them, is to cease on their death, or on their attaining the age of 21 years. Grandchildren are thus plainly excluded. According to the opinion expressed by me in the case of the personal representatives of Mrs. Murray, the widow and daughter of Commodore Barron, having each died before the passage of the law, had no right which they could transmit to their personal representatives; and consequently Mrs. Camp's claim is, in this respect, also invalid.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[65.]

MILITARY PENSIONS.—If a soldier dies after the 4th of March, 1831, and before the 7th June, 1832, and leaves a widow who dies before the 7th of June, 1832, the children of the widow, if not children of the deceased soldier, are *not* entitled to a pension, (but if children of the soldier, they *are* entitled.)*

ATTORNEY GENERAL'S OFFICE, *April* 13, 1837.

SIR: In the memorandum of the honorable Mr. Hubbard, enclosed in your letter of the 24th ultimo, the following case is stated: "In case a soldier dies before the 7th of June, 1832, and after the 4th of March, 1831, and leaves a widow, and she dies also before the 7th of June, 1832, are his children entitled to the pension from March, 1831, to the day of his death; or does the pension go to the children of the widow?"

In answer to your request for my opinion on this subject, I have the honor to inform you that, in my opinion, the children of the *soldier*, and not the children of the widow, are entitled to the pension from the 4th of March, 1831, to the time of his death.

To the SECRETARY OF WAR.

B. F. BUTLER.

[66.]

WIDOWS AND ORPHANS OF MILITARY OFFICERS, &c.—1. Under the 3d section of the act of the 4th July, 1836, the widows and orphans of officers and soldiers, who had died of wounds received in the military service, or may, after the passage of the said act, die in consequence of such wounds, are entitled to the pension provided by that

* A number of other opinions reiterating these principles, expressed from [56] to [64] are omitted as superfluous labor imposed on the Attorney General, by repeated inquiries of the department.

act. 2. The same is extended to the widows of officers who were living when the act of 7th June, 1832, was passed. 3. The children of a widow who was living on the 4th July, 1836, and was entitled to the benefit of the 3d section of the act of that date, can draw the amount due up to the date of her death, although she failed to apply. 4. In all cases where the husband was in the receipt of a pension under any of the revolutionary pension acts, until the time of his death, the pension of the widow, under the act of the 4th July, 1836, can only commence from the date of her husband's death. 5. The agent for paying pensions is not the accounting officer meant by the 4th section of the act of July 4, 1836, which evidently refers to some officer of the Treasury Department—the section having been evidently passed under an entire misapprehension of the mode in which the business is transacted.

OFFICE OF THE ATTORNEY GENERAL, *April 13, 1837.*

SIR: I proceed to state my opinion on the several questions arising on the act of the 4th of July, 1836, "granting half pay to widows or orphans where their husbands and fathers have died of wounds received in the military service of the United States, in certain cases, and for other purposes," submitted in the communication of the Commissioner of Pensions, referred to me by your letter of the 24th ultimo.

"1. Whether the 3d section provides for the widows of officers and soldiers who have died since the 4th of July last?"

In my opinion, it does not. The words used in the 3d section, "if any person who, &c., *have died*," in their grammatical sense, do not extend to future cases, and it must be presumed that Congress intended to use them appropriately; especially when it is perceived that in the first section the second future "*shall have died*" is used—evidently with intent to embrace not only past cases, but those which might afterwards occur.

"2. Whether it extends to the widows of officers who were living at the time when the act of June 7th, 1832, passed?"

With some hesitation, I think it most agreeably to the general spirit of this law to answer this question in the affirmative. The main enacting part of the section is broad enough to embrace all persons who served in the manner specified, who died *before* the passing of the act; and though the concluding words "*if living at the time it [the law of 1832] was passed*" are calculated to excite doubts as to the real intent of Congress, yet they are not, perhaps, sufficiently strong to limit the comprehensive language of the former part of the provision.

"3. Can the children of a widow, who was living on the 4th of July last, and was entitled to the benefits of the 3d section of the act, now draw the amount due up to the day of her death, although she failed to apply?"

According to several opinions heretofore given in this office, especially in navy pension cases, the right of the widow under the act is to be regarded as a vested interest accruing on the passage of the law, and not defeated by the omission to apply for it; and it goes, as such, on her death, to her personal representative: there being no special provision in the law giving it a different direction.

4. I am of opinion that, in all cases where the husband was in the receipt of a pension under any of the revolutionary pension

acts, until the time of his death, the pension of the widow, under the act of the 4th of July, 1836, can only commence from the date of her husband's death. This is evidently the general principle of the law; and by this construction there will be no occasion to make deductions, nor will any of the difficulties arise which have been suggested by the Commissioner.

5. I think the agent for paying pensions is not the "*accounting officer*" intended by the 4th section of the act, which evidently refers to some officer of the Treasury Department. But the section was evidently passed under an entire misapprehension of the mode in which the business is transacted. No "*warrant*" is issued, nor indeed can one be issued, to the attorney of the pensioner. The only "*warrant*" employed in the transaction, as I understand, is the general one for such sum as is deemed necessary to be placed in the hands of the pension agent; the pensioners, after receiving their certificates, are inscribed on the pension roll, and, being so inscribed, on proof of the life and identity, are paid personally, or through their attorneys, without any special warrant or other treasury order. The section, in its present form, is therefore wholly nugatory; but the Secretary of War is empowered to prescribe regulations, and the one stated by the Commissioner effects the object which Congress had in view. It does not seem to me to require any alteration.

6. The construction given to the 3d section, in respect to widows who have married since the death of the husband performing the service, as stated by the Commissioner, was, in my judgment, the correct one; but, by the explanatory act of the 3d ultimo, the benefits of the provisions are extended to such persons.

To the SECRETARY OF WAR.

B. F. BUTLER.

[67.]

NAVY INVALID PENSIONS.—Pensions granted to invalids before the passage of the act of the 3d March, 1837, according to the rates of disability, are required by the 2d section of that act to commence from the date of their disability, but are not entitled to be increased under that section.

ATTORNEY GENERAL'S OFFICE, Nov. 10, 1837.

SIR: I have examined the correspondence between the department and Commodore Jones, relative to his claim to arrears of pension under the act of the 3d of March, 1837, "for the more equitable administration of the navy pension fund;" and have the honor to state that, in my opinion, the 2d section of that act plainly adopts the pay of the navy as it existed on the 1st day of January, 1835, as the standard for all cases coming within that section; and that I do not see any legal warrant for a different construction. There is certainly much difficulty in perceiving any equitable ground for increasing the pension, as to past cases, beyond one half of the pay to which the party was from time to time entitled; but Congress had the power to do it, and the words employed seem to me to be imperative.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[68.]

NAVY PENSIONS TO WIDOWS.—The widow of any person borne on the ship's books as one of the crew, and is amenable to martial law, being therefore a seaman, is entitled to a pension.

ATTORNEY GENERAL'S OFFICE, Nov. 18, 1837.

SIR: In reply to your letter of the 3d instant, in relation to the claim of Mrs. Proctor, I have the honor to inform you, that if (as I understand is the fact) the steward serving on board a ship-of-war is borne on the ship's books as one of the crew, and is amenable to martial law, I think he must be regarded as a *seaman*, within the pension laws, so as to entitle his widow to a pension. In the particulars stated, such a case is entirely distinguishable from that of the *hospital* steward to which you refer.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[69.]

NAVY INVALID PENSIONS.—A pension granted to an invalid before the passage of the act of 3d March, 1837, for less than complete disability, must prove the existence of a greater disability before his pension can be increased under the 2d section of that act. This completes opinion [67] in the case of Commodore Jones.

ATTORNEY GENERAL'S OFFICE, Nov. 21, 1837.

SIR: On a reconsideration of my opinion in the case of Commodore Jones, pursuant to the request contained in your letter of the 18th instant, I perceive that it does not determine the question whether his case, as stated in your letter to him, and in your last communication to me, comes within the 2d section of the act of March 3, 1837, as expounded in my opinion. That question I shall now endeavor to solve.

Had Commodore Jones never received a pension for the injury sustained by him, he would now be entitled, (according to the principle settled in my former opinion,) on proving the degree of his disability, to the proper proportion of the pay of a lieutenant, as it existed on the 1st of January, 1835; and although he has been in the receipt of a pension under a certificate granted by the commissioners for the management of the pension fund, and under the special act of Congress approved on the 10th of May, 1834, I do not think he is thereby prevented from claiming the like benefit of the act of 1837. But, as it appears from your statement that neither the pension certificate granted to him on the 1st of July, 1828, nor the act of Congress of the 10th of May, 1834, is, in words, *half pay*; and that neither of them declares his disability to be a *total one*, so as necessarily to entitle him to half pay; and as you do not consider these acts as proving that the disability was *total*, I cannot say that he is entitled, on the mere production of the certificate, to have his pension regulated according to the pay of a lieutenant as it existed on the 1st of January, 1835. The claim to be paid his arrears at the rate of

twenty-five dollars per month, being half the pay of a lieutenant on the 1st of January, 1835, depends, as I understand the case, on the question whether the disability was total or not; and if the disability has not already been proved to be of that character, such proof must now be made, precisely as if no pension had been paid, before the party can now be entitled to arrears at that rate.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[70.]

NAVY PENSIONS TO WIDOWS.—By acts of July 20, 1813, and March 4, 1814, though not by that of 3d March, 1837, the widow of a person who has died of *wounds* received in the line of his duty in the service, though the death should have occurred after he had left the service, is entitled to a pension.

ATTORNEY GENERAL'S OFFICE, *April 6, 1838.*

SIR: In reply to the question arising in the case of Peter Gordon, and proposed by your letter of the 6th of February, 1838, I have the honor to state that, in my opinion, the first section of the act of the 3d of March, 1837, is confined to cases where the death occurred whilst the person was in the naval service. But, under the navy pension act of January 20, 1813, and the second section of the like act of the 4th of March, 1814, it does not appear to me that the death need occur in the naval service, provided it be proved to have been occasioned by a wound received whilst in the service and in the line of his duty.

To the SECRETARY OF THE NAVY.

B. F. BUTLER.

[71.]

WIDOWS' PENSIONS.—The act of July 7, 1838, was intended to provide pensions for widows who were not embraced in the 3d section of the act of July 4, 1836, or other prior laws.

ATTORNEY GENERAL'S OFFICE, *August 24, 1838.*

SIR: In answer to the question arising in the case of Mary Neale, as stated in the communication of the Commissioner of Pensions, referred to me by your letter of the 14th instant, I have the honor to state that, in my opinion, those widows who have obtained and are now receiving pensions under the third section of the act of the 4th of July, 1836, are not within the equity or design of the recent act of July 7, 1838. We must look at this last act as a part of the general system of the revolutionary pensions; and, so regarding it, there can be no room to doubt that the intent of Congress was to provide for a class of widows not embraced in the prior laws, and not to give to widows already on the pension list an additional pension. It is true there is no section or clause expressly excluding such persons from the benefit of the law; but I think they are excluded by its obvious intent. I adopt this conclusion with the less hesitation, because,

should I have mistaken the real design of Congress in this respect, my error may readily be corrected by a supplementary law.

To the SECRETARY OF WAR.

B. F. BUTLER.

[72.]

NAVY INVALID PENSIONS.—Invalids disabled previous to the passage of the act of 23d April, 1800, which established the navy pension fund, are not entitled to its benefits.

ATTORNEY GENERAL'S OFFICE, *September 3, 1838.*

SIR: You state in your letter of the 31st of August last, that Commodore David Porter claims a pension for wounds received in the line of his duty in the naval service, prior to the 23d of April, 1800, (the date of the law which established the navy pension fund;) and my opinion is requested, whether your department has authority to grant pensions for deaths or disabilities which occurred before the pension fund was established.

My opinion is, that no such authority exists. Upon an examination of the act of 23d April, 1800, no expression is found indicating an intention on the part of Congress that the fund then provided should be subject to cases which had occurred before that time. The 2d section of the act of the 3d of March, 1837, it is believed, cannot be so construed as to embrace a class of persons not included in former laws. The only object of that section is to make the pensions more ample in behalf of those entitled under pre-existing laws.

To the SECRETARY OF THE NAVY.

FELIX GRUNDY.

[73.]

VIRGINIA REVOLUTIONARY PENSIONS.—The views of the Secretary of the Treasury, in relation to Virginia revolutionary pension claims under the act of July 5, 1832, [133] ante, p. 164, are concurred in by the Attorney General: but neither the *opinion*, nor the note of the Commissioner of Pensions referred to him by the acting Secretary of War, state the question at issue.

ATTORNEY GENERAL'S OFFICE, *September 10, 1838.*

SIR: In answer to your inquiry contained * in the letter of Mr. Edwards, Commissioner of Pensions, of the 3d instant, I would

**Note.*—The following letter shows the ground of the above opinion:

WAR DEPARTMENT, PENSION OFFICE, *September 3, 1838.*

SIR: I respectfully submit the case of the heirs of William Vawters, deceased, who claim the benefits of the act of July 5, 1832, entitled "An act to provide for liquidating and paying certain claims of the State of Virginia," in order that the opinion of the Attorney General may be obtained on the subject. The question is, whether this department should adhere to the decision of the Treasury Department, as contained in the letter of the honorable Louis McLane, of the 10th of December, 1832; or be governed by the principles contained in the report of the Committee on Revolutionary Claims of the House of Representatives, of the 26th of January, 1835. Both these papers will be found in document No. 121, H. R., 2d session 25th Congress, a copy of which is herewith enclosed.

I have the honor to be, very respectfully, your obedient servant,

J. L. EDWARDS.

Major S. COOPER, *Acting Secretary of War.*

say, that upon an examination of the opinion given by Mr. Mc-Lane on the 10th of December, 1832, I see no reason why it should not be adhered to. It contains, in my judgment, the true interpretation of the existing laws on the subject; and a departure from it by your department would be unauthorized by law.

The report of the committee of the House of Representatives of January 26, 1832, may be a proper basis for the action of Congress, but can by no means warrant your department in doing that which it is alone competent for Congress to do.

To the SECRETARY OF WAR.

FELIX GRUNDY.

[74.]

WIDOWS' REVOLUTIONARY PENSIONS.—Widows, whose husbands served in the revolutionary war, having married again before the passage of the act of the 7th July, 1838, are excluded from its benefits, upon the same principle that the pensions of those widows who marry after the passage of the act are discontinued on the event of their second marriage.

ATTORNEY GENERAL'S OFFICE, *September 18, 1838.*

SIR: In your letter of the 17th instant, you propose the following question for my opinion: "Is a widow, whose husband served six months during the revolutionary war, and who was married to him prior to the year 1794, excluded from the provisions of the act of the 7th of July, 1838, in consequence of having married after the death of her husband, on account of whose service she claims?"

The 1st section of the act of the 7th of July, 1838, is as follows: "*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any person who served in the war of the revolution, in the manner specified in the act passed the seventh day of June, eighteen hundred and thirty-two, entitled 'An act supplementary to the act for the relief of certain surviving officers and soldiers of the revolution,' have died, leaving a widow, whose marriage took place after the expiration of the last period of his service, and before the first day of January, seventeen hundred and ninety-four, such widow shall be entitled to receive, for and during the term of five years from the fourth day of March, eighteen hundred and thirty-six, the annuity or pension which might have been allowed to her husband in virtue of said act, if living at the time it was passed: Provided, That, in the event of the marriage of such widow, said annuity or pension shall be discontinued.*"

It is upon this section, and no other provision of law, that the class of claims embraced in your question is to be allowed or rejected. It cannot be believed that Congress intended to, and did, provide for a discontinuance of a pension already granted, upon the event of the widow's second marriage, and still that such marriage should not prevent the allowance of the pension in the

first instance, when the second marriage took place before the pension was granted. I am, therefore, of opinion that the Commissioner of Pensions decided correctly in rejecting this class of claims.

To the SECRETARY OF WAR.

FELIX GRUNDY.

[75.]

PENSIONS TO PAYMASTERS' WIDOWS.—A paymaster being a commissioned officer in the military service, his widow is entitled to a pension under the provision of the 15th section of the act of 16th March, 1832.

ATTORNEY GENERAL'S OFFICE, *March 22, 1839.*

SIR: By yours of the 15th instant, my opinion is asked whether the widows and children of paymasters of the army are entitled to the benefit of the 15th section of the act of the 16th of March, 1832, fixing the military peace establishment of the United States?

It was decided by my immediate predecessor, in an opinion given on the 16th of March, 1836, that the 15th section of the act referred to was still in force. Adopting that opinion (which accords with my own) as correct, the only inquiry is, Does it embrace paymasters? The language is, "That if any commissioned officer in the military peace establishment of the United States shall, while in the service of the United States, die by reason of any wound received in actual service of the United States, and leave a widow," &c.

Paymasters are nominated by the President, and confirmed by the Senate, and then commissioned by the President. They are then commissioned officers; they belong to the military branch of the public service, and are at all times subject to the orders of the War Department. It therefore seems to me that they are clearly within the terms and meaning of the 15th section of the act of the 16th March, 1832; and, of course, my opinion is, that the widow and children are entitled to the benefit of the provisions of said section.

To the SECRETARY OF WAR.

FELIX GRUNDY.

[76.]

WIDOWS' NAVY PENSIONS.—The arrear of pension granted to officers, seamen, and marines, by the act of 3d March, 1837, though the decedent had received no part of it, must be paid to his widow or his legal representatives.

ATTORNEY GENERAL'S OFFICE, *March 23, 1839.*

SIR: I have the honor to acknowledge the receipt of yours of the 9th ultimo, in which you state that Hamlet Moore, a navy pensioner, died on the 19th of October, 1838; that, under the act of Congress of the 3d of March, 1837, for the more equitable administration of the navy pension fund, he was entitled to arrears

of pension from the date of his injury received in the naval service. And my opinion is asked, whether his arrears of pension, not being received by him in his lifetime, shall revert to the navy pension fund, or be paid to his legal representatives?

The second section of the act referred to declares "that the pensions which may have been granted to officers, seamen, and marines in the naval service, disabled by wounds or injuries received while in the line of their duty, shall be considered to commence from the time of their being so disabled," &c.

So soon as this law passed, the pensioner became entitled, in my opinion, to his arrearages of pension, as fully as he was to the pension itself; and although he died without having received what was due to him, still the money does not belong to the navy pension fund, but must be paid over to his legal representatives.

To the SECRETARY OF THE NAVY.

FELIX GRUNDY.

[77.]

NAVY WIDOWS' PENSIONS.—The widow of a deceased officer temporarily employed in a *higher grade*, without commission in that grade, though with a reasonable expectation, amounting even to moral certainty, of receiving promotion to such grade, is only entitled to a pension from the time of his death at the grade of his actual commission.

ATTORNEY GENERAL'S OFFICE, April 27, 1839.

SIR: I have had the honor to receive your communication of the 25th instant, relative to the claim of Mrs. Coxe, as widow of J. S. Coxe, who died in the naval service of the United States.

Mrs. Coxe now claims the same pension to which she would have been entitled had her husband been actually appointed a lieutenant before his death, on the ground that he had been acting as lieutenant, and in that capacity had rendered very meritorious services; and on the ground, also, that he had been nominated by the President to the Senate for promotion to a lieutenantcy; and which nomination would undoubtedly have been confirmed, had he not died before the action of the Senate could be had thereon.

The question for my opinion is, whether she is to receive a pension on account of her deceased husband as a midshipman or lieutenant? My opinion is, that his acting as lieutenant, and his being nominated by the President for promotion, could not change his rank until the confirmation of the Senate. This confirmation was prevented by his death. He died a midshipman, and his widow must receive a pension accordingly.

To the SECRETARY OF THE NAVY.

FELIX GRUNDY.

[78.]

NAVY WIDOWS' PENSIONS.—The widow of a deceased officer of the navy, who had previously enjoyed a like commission, but by its resignation had become a private citizen, in the interval, cannot claim a pension at the rate of the pay he might have enjoyed under a continuous commission, but only at the rate computable from the commission he held at his death.

ATTORNEY GENERAL'S OFFICE, *June 1, 1839.*

SIR: I have had the honor to receive your communication of yesterday, relative to the pension which should be allowed to the widow of Doctor James Page, late a surgeon in the navy of the United States.

It appears that he was commissioned as a surgeon in the navy in 1811; that he resigned in 1824; was reappointed in 1827; and died in the naval service in 1832.

His widow now claims a pension as having been the wife of a surgeon of more than twenty years standing in the navy. My opinion is, that she is not entitled to a pension upon the principle set up by her. The two commissions, and the service under them, cannot be united for the purpose of justifying a claim for the amount claimed by the petitioner. When he resigned his first commission, he became a private citizen; and had he died before his second appointment, his widow would have been entitled to no pension whatever; and it is only by virtue of his second commission that she is entitled to a pension at all; and, in my judgment, the law will not warrant the taking into view his services under the first commission, in computing the time which is to determine the amount of the pension of his widow. Therefore, it seems to me she is entitled to a pension as the widow of a surgeon who was commissioned in 1827 and died in 1832.

To the SECRETARY OF THE NAVY. FELIX GRUNDY.

[79.]

REVOLUTIONARY PENSIONS OF THE ACT OF 7TH JUNE, 1832, modified, restricted, and extended.—The provisions of the act of the 7th June, 1832, allowing pensions to certain officers, soldiers, seamen and marines, of the revolution, and, in the event of their death, to their widows or children, are modified and restricted by the 3d section of the act of July 4, 1836, so as to bar the widows from the time of their subsequent marriage; but said bar imposed by said act of July 4, 1836, is annulled by the act of 3d March, 1837, if said claimants were again widows at the time of the passage of said act of July 4, 1836: and the said act of July 4, 1836, is again modified by the joint resolution of the 7th July, 1838, by declaring that the benefits of the 3d section of said act of July 4, 1836, shall not be withheld from any of such widows whose second husband, whether revolutionary or not, has died since the passage of said act of July 4, 1836, or may hereafter die, in her lifetime—consequently embracing and providing for the widows of revolutionary officers, soldiers, seamen, and marines, who married a second time, no matter whom, whenever they shall again become widows.

ATTORNEY GENERAL'S OFFICE, *October 2, 1839.*

SIR: In answer to yours of the 26th ultimo, I will remark, that I have examined the different acts of Congress in relation to the pensions provided by law for the widows of the officers and sol-

diers of the Revolution; and the following construction of them seems to be most consonant with the principles of law, and the intention of Congress in passing them.

The 3d section of the act of 1836 is as follows: "That any person who served in the war of the Revolution, in the manner specified in the act passed the 7th day of June, 1832, entitled 'An act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution,' have died, leaving a widow whose marriage took place before the expiration of the last period of his service, such widow shall be entitled to receive, during the time she may remain unmarried, the annuity or pension which might have been allowed to her husband, by virtue of the act aforesaid, if living at the time it was passed."

This act gave the pension of the revolutionary officer or soldier to the widow; but her second marriage barred the claim, it being the intention of Congress only to provide for her while she remained the widow of the officer or soldier.

On the 3d of March, 1837, Congress made the following provision: "That the benefits of the third section of the act entitled 'An act granting half pay to widows and orphans where their husbands and fathers have died of wounds received in the military service of the United States, and for other purposes,' approved the 4th day of July, 1836, shall not be withheld from any widow, in consequence of her having married after the decease of the husband for whose services she may claim to be allowed a pension or annuity under said act: *Provided, That she was a widow at the time it was passed.*"

This annuls the disability to claim produced by the second marriage, which existed under the former law; still, to entitle the claimant to the benefit of its provision, she must have been a widow on the 4th of July, 1836.

On the 7th July, 1838, the following joint resolution, which had passed both Houses of Congress, was approved by the President of the United States: "*Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the benefits of the third section of an act entitled 'An act granting half pay to widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States, in certain cases, and for other purposes,' approved the 4th day of July, 1836, shall not be withheld from any widow whose husband has died since the passage of the said act, or who shall hereafter die, if said widow shall otherwise be entitled to the same.*"

In placing a construction upon this resolution, and deciding upon the class of individuals to be embraced by it, reference should be had to the law as it stood when this resolution was adopted. The wife of the officer or soldier was provided for by the act of 1836, if he had died before the passage of the law, and she remained a widow at the passage of the act.

Also, by the act of 1837, those widows were provided for who

had married again, provided the second husband had died before the passage of the act.

The resolution was then passed, which repeals or annuls all former restrictions as to the time of the death of the husband; and the only doubt which can be raised is, whether the death of the husband referred to in the resolution is to be confined to revolutionary officers or soldiers, or any other husband to whom the widow of the officer or soldier may have been married after the decease of the former husband, who was an officer or soldier of the Revolution?

As the act of 1837 had removed the objection to the second marriage, and allowed the pension to the widow, although she had married again, provided she was a widow on the 4th of July, 1836; and as the resolution removes the impediments as to the time of the death of the husband,—I think a just construction of the resolution, when taken in connexion with the former acts, will embrace the widows of revolutionary officers and soldiers who married the second time, whenever they shall again become widows.

To the SECRETARY OF WAR.

FELIX GRUNDY.

[80.]

PENSION AGENTS' CONTINGENT EXPENSES.—The contingent expenses of pension agents, in performing their official duties, should be paid; as the prohibitions of the act of April the 20th, 1836, could only have been meant to stop the two per cent. commissions which had been previously allowed them for paying pensions, but not to impose an insuperable impediment to the performance of their duty.

ATTORNEY GENERAL'S OFFICE, *October 12, 1839.*

SIR: I have had the honor to acknowledge the receipt of yours of the 9th instant, enclosing a letter from the Commissioner of Pensions, stating two cases upon which my opinion is asked.

1. Robert King, pension agent at Knoxville, Tennessee, charges for stationery, printing blanks, &c., for the use of the agency, the sum of \$333 75, from June, 1834, to May, 1839, inclusive; in support of which, he has produced the necessary vouchers.

2. B. M. Lowe, pension agent at Huntsville, Alabama, charges for the transportation of \$9,000 in specie from Pontotoc, in Mississippi, to Huntsville, Alabama, the sum \$75; and \$37, the amount of discount on a Treasury warrant on Pontotoc for \$3,137. These accounts (except the last item in Mr. Lowe's account, which requires some explanation) the Commissioner of Pensions, in his letter, says are no doubt correct; and, according to the former practice in such cases, would be paid. The question arising upon these facts, and presented for my opinion, is, whether the act of Congress approved the 20th of April, 1836, entitled "An act to prescribe the mode of paying pensions heretofore granted by the United States," forbids the payment of these claims?

The act upon which this question arises is in the following words: "That all laws and parts of laws authorizing or requiring the Bank of the United States or its branches to pay any pensions granted under the authority of the United States, shall be, and the same are hereby, repealed; and such payments shall be hereafter made at such times and places, by such persons or corporations, and under such regulations, as the Secretary of War may direct; but no compensation or allowance shall be made to such persons or corporations for making such payment, without authority of law."

In order to determine the proper construction of this act, it will be necessary to recur to those circumstances in which it had its origin.

It appears that, prior to the establishment of the Bank of the United States in 1817, the pensioners were paid by the commissioners of loans, who received two per centum on all sums disbursed by them. After the establishment of the Bank of the United States, the pensioners were paid, without charge to the United States, by that bank and its branches, except in places where no branches had been established; and in those places the agents were allowed two per centum on all sums disbursed; and their accounts were paid for contingent expenses, such as stationery, printing, transportation of specie, &c.

Such was the usage warranted by law, when Congress passed the act of April 20, 1836. This act dispenses with the agency of the Bank of the United States, and provides "that the Secretary of War shall thereafter make the payments by such persons or corporations, and under such regulations, as he may direct; but no compensation or allowance shall be made to such persons or corporations for making such payments, without authority of law."

It should be here remarked, that the commissioners of loans had received two per centum on the sums paid out by them to pensioners prior to the year 1817; and all other agents after that time, except the United States Bank and its branches, received the same compensation. And, in addition, their accounts for stationery, printing, &c., were paid.

These terms, "no compensation or allowance," may well be satisfied by making them operate upon the two per centum which had been previously allowed to the pension agents. To make this provision extend to a prohibition of the reimbursement of moneys actually expended for the use of the Government, would be, as it seems to me, doing violence to the language employed in the act, and by construction enlarging its prohibitions, so as to do injustice to individuals engaged in the discharge of a meritorious public service. It is not to be believed that Congress intended that such should be the effect of any act passed by that body; on the contrary, a fair construction of that act, deduced from its history and its language, is, that no compensation or allowance shall be made for the personal services of a pension agent. But the payment of necessary contingent expenses is not prohibited.

It will be perceived that I have not taken into view the last item of Mr. Lowe's account, because the Commissioner of Pensions expressed the opinion that some explanation relative to that item ought to be given by Mr. Lowe.

Agreeably to the foregoing opinion, the account of Mr. King should be paid, and also the first (of \$75) in the account of Mr. Lowe.

To the SECRETARY OF WAR.

FELIX GRUNDY.

[81.]

REVOLUTIONARY INVALID PENSIONS.—If the widow of a revolutionary pensioner is directed by law to be placed on the pension roll, at the same rate that her husband received before the passage of said law, or order; and it turns out that she had died before the passage of such law in her behalf, but leaving children, then the children are entitled to the arrear, under the provision of the act of 2d March, 1829; and the share of an absent child or children shall be reserved for them, but if no children, then the arrear to go to the legal representatives of the deceased pensioner.

ATTORNEY GENERAL'S OFFICE, *May 25, 1840.*

SIR: I had the honor to receive your letter of the 21st instant, requesting my opinion relative to the construction of the act of 3d of March, 1839, granting a pension to Mary Updegraff.

That act provides "that the Secretary of War be directed to place the name of Mary Updegraff, widow of Isaac Updegraff, deceased, and late a pensioner of the United States, on the roll of revolutionary pensioners; and pay the same amount of pension per annum which her said husband received in his lifetime; the same to commence and take effect at and from the first of March, eighteen hundred and thirty-one; to be paid out of any money in the treasury not otherwise appropriated."

From the documents submitted by the Commissioner of Pensions, it appears that Mary Updegraff died on or about the 17th of February, 1839, leaving the following named children, who now reside in Pennsylvania, viz: Elizabeth Alexander, Lucretia Beatty, Abraham Updegraff, and Peter Updegraff. The deceased had another son, John Updegraff, who left home twenty-eight years ago, and has not since been heard from.

In reply to your first inquiry—whether "it was the intention of the law to give the pension to the legal representatives, or to the children of the deceased, in case she should not live to apply for the amount provided by the act,"—I have to say, that I consider the language of the law imperative in directing the name of Mary Updegraff to be placed "on the roll of revolutionary pensions," and also in directing the payment of the arrears of pension from the first of March, 1831, to the time of her death. The person to whom the payment is to be made not being designated, we must be guided by the legislative regulations relative to the payment of revolutionary pensioners. The second section of the act of 2d of March, 1829, which embraces such of those regulations as are applicable to the present case, provides, that "whenever

any revolutionary pensioner shall die, the Secretary of War shall cause to be paid the arrears of pension due to the said pensioner at the time of his death; and all payments under this act shall be made to the widow of the deceased pensioner, or to her attorney; or, if he left no widow, or she be dead, to the children of the pensioner, or to their guardian, or his attorney; and if no child or children, then to the legal representatives of the deceased."

In accordance, therefore, with these provisions, I am of opinion that the payment should be made to the children of Mary Updegraff.

In reply to your second inquiry, whether "the four children known to be living are to receive all that is due; or whether a fifth part is to be reserved, in case application should be made by John Updegraff, or his legal representatives, if he is dead; I have to say that, in my opinion, the share in question should be reserved. Although the lapse of time is sufficient to raise strong probability of the death of John Updegraff, yet the subject is one of which the decision properly belongs to the judicial tribunals of the State of Pennsylvania. If the proper court of probate shall be satisfied of the fact, after the usual mode of proceeding in such cases, and shall see fit to grant letters of administration, the department would be then justified in regarding him as dead, but not otherwise.

To the SECRETARY OF WAR.

H. D. GILPIN.

[82.]

"PENSION TO MINISTERS.—Commodore Porter, who is borne on the pension-roll at the rate of forty dollars per month, is entitled both to his pension and his regular pay as minister at Constantinople."

OFFICE OF THE ATTORNEY GENERAL, *May 26, 1842.**

SIR: The following question, submitted to you by the Second Comptroller, has been considered by me: "Captain David Porter, minister at Constantinople, is borne on the navy pension-roll at the rate of \$40 per month. I have respectfully to inquire whether he is entitled to his pension under the law of August 16, 1841, c. 8, while he is in the receipt of his pay as minister?" I am of opinion that the case of the minister at Constantinople does not

* For the abstracts prefixed to each of the opinions of Attorneys General from this date, we are indebted to the recent edition of these opinions, where we find the plan pursued not very different from that we had adopted for the opinions preceding that date, compiled from the first edition, which had no abstract of their general import prefixed to them. And although they do vary, in some respects, from the method we had thought most eligible to apply to those preceding that date, the difference is not so material as to induce us to make any exception to them. However, from such an exhibit of the shades of difference between the two modes of making those abstracts, some utility may be derived to the public; whilst we are confident no substantial discrepancies will be found, to justify any exception being made. For a further remark on the plan we had previously adopted, see the introduction: For example, we would rather not have headed this "Pension to Ministers," because the principle applies to all civil officers. In deference, however, to the esteemed editor of these continuations of opinions, we quote his abstracts.

fall within the second section of the act of August 16, 1841, which seems confined to persons in the naval service.

To the SECRETARY OF THE NAVY.

H. S. LEGARE.

[83.]

"PENSIONS TO WIDOWS OF OFFICERS UNDER THE ACT OF 1838.—The widows of officers who were dead at the passage of the act of 1832, but who, if alive, would have received pensions under it, are not entitled to the benefit of the act of 1838."

"Mr. Butler's opinion on the same subject commented on—its correctness doubted."

OFFICE OF THE ATTORNEY GENERAL, May 31, 1842.

SIR: I have had the honor to receive and to consider your observations of the 30th instant, on the construction heretofore put upon the words of the act of July 7, 1838, in relation to pensions to be paid to the widows of officers who have died, and who, but they were dead at the time of the passing of the act of 1832, would have received their pension under this latter act. Considering it as *res integra*, I should say that the case of a widow whose husband actually received his annuity under that act, is not within the provisions of the statute of 1838. Besides that, the words do not embrace the case; and, besides the difficulty—insuperable, it appears to me—in the way of a widow drawing pay from the 4th March, 1836, when her husband happens to have survived that epoch, the 4th section of the act of 1832 provides expressly for the case of an officer dying "during the period intervening between the semi annual payments directed to be made." The provision is, "that the proportionate amount of pay which shall accrue between the last preceding semi-annual payment and the death of such person, shall be paid to his widow." The act of 1832, therefore, contemplates the case of a husband entitled under it, and gives the widow all he would have received, and no more. The act of 1836 took up a case not within that of 1832. It provides for a certain description of wife who was totally excluded from all benefit under that act by the death of her husband. The act of 1838 goes a little further. It extends to another description of wives; but it still contemplates them as having been so situated as not to profit by the act of 1832, and it gives to them what their husbands, if alive, would have taken. I do not see how language can be plainer.

But Mr. Butler's opinion having settled the practice under the act of 1836, it is, perhaps, too late to change your practice in regard to it. The act of 1838 differs from the last mentioned statute in the important feature above referred to. The widow is to begin to draw her pension from March, 1836. Now, if her husband were then alive, it is clear she could not be entitled to an additional allowance in her own right. I hold that to be fatal to the application of Mr. Butler's reasoning to the last act. With respect to this act, therefore, you are free to take the course you shall judge fittest.

I should have rejoiced to be able to adopt a construction favorable to the claims of the widows of these brave men. But the law which gives, disposes; and I am bound to interpret it as I find it.

To the SECRETARY OF WAR.

H. S. LEGARE.

[84.]

"PENSION TO A CHEROKEE CHIEF.—The pension of Pigeon, the Cherokee chief, to be paid to his personal representatives."

OFFICE OF THE ATTORNEY GENERAL, *June 23, 1842.*

SIR: In the matter of the pension of Pigeon, the Cherokee chief, I am of opinion his administrator is entitled to receive the amount to which he would have been entitled had he survived the passing of the act. The act is to be read with the treaty, of which it is the fruit and fulfilment; and both relate back to the period of disability. The treaty was a contract with Pigeon during his life, or with his tribe, for his benefit; and the benefits, as well as the responsibilities growing out of it, descended, as of course, to his personal representatives. The words of the law must be construed by reference to this contract; and there can be no doubt that Pigeon's administrators are protected by the latter. Therefore, I think they ought to be paid the pension due him from the time of his disability until his death.

To the SECRETARY OF WAR.

H. S. LEGARE.

[85.]

"ADJUSTMENT OF OVERPAYMENTS OF PENSIONS.—If a person entitled to a pension from the government be overpaid by mistake, or by the application of some wrong principle of computation, and yet have a further claim against the government, the claim may set off against the said overpayment.

"Mr. Butler's opinion reviewed and commented on."

OFFICE OF THE ATTORNEY GENERAL, *July 2, 1842.*

SIR: In the matter of James Palmer's pension, considered as a matter unprejudiced by previous decisions in this office or in yours, I should be of opinion that the deduction ought to be made. In all cases of mistake of fact, there is a *condictio indebiti* even in favor of an individual, much more of a government, which is, on strict principles, not estopped even by a judgment of a court in case of subsequently discovered evidence. I do not conceive there would be, on general principles, any objections to setting off a demand of the government against a pensioner arising out of a separate cause. (See *Priddy vs. Rose*, 3 Mer., 84, especially at p. 104.) But the statute of 1836 (20th May) has, as far as it goes, certainly altered the law in this respect. The case here, however, is not a defalcation in a disbursing officer, or even a col-

lateral demand. It involves merely an adjustment, on correct principles, of the very account on which the claim of the pensioner arises. If he have been paid already by anticipation, what equity is there in the present demand? How can he keep what is enough to pay his whole claim, and yet insist on having more?

Thus stands the case between him, as creditor, and the government, as debtor. But there is another view of the subject; and that is the one taken by the authors of the above cited law of 1836, and by Mr. Butler, when acting as Secretary of War. It is this: Pensions are given to maintain decently a person entitled to public bounty for past service, and have no reference whatever to any present relation between government and the beneficiaries. This is plausible; and the act of 1836 certainly gives it countenance. But I cannot accede to the general principle. I have cited authority to show that pensions at common law are liable to set-off. Beyond the scope of the exception in the act of 1836, the common law is still unchanged. But that statute only applies to defalcations in disbursing officers, and can, by no fair construction, be made to affect a settlement in such an account. Suppose the pensioner to have invested, and still to possess, the over-plus paid him; can he conscientiously keep it? The maxim is universal, *neminem alieno damno ditiorum esse oportet*. Still, if Mr. Butler's opinion has been acted on, and has grown into settled practice, I would not advise you to disturb it now.

To the SECRETARY OF WAR.

H. S. LEGARE.

[86.]

"PENSIONS TO WIDOWS UNDER ACT OF 1838.—In consequence of the Executive construction given to the laws of 1838, Congress has declared, by resolution, that it embraces the cases of widows whose husbands were alive in 1832.

"Widows take for five years, beginning in 1836, and are to be paid, according to the letter of the law, from that time."

ATTORNEY GENERAL'S OFFICE, *September 2, 1842.*

SIR: In the matter of widows' pensions under the act of 1838, it appears that one of your predecessors and one of mine settled the law to be, that in all cases under the acts of 1836 and 1838, the widow began to take only upon the husband's death. In a former opinion on the meaning of the law of 1838, I thought the inconvenience of a double pension, a pension to the husband till 1838 and a pension to the wife from 1836, so glaring an objection to the construction that widows in that category should take at all, that I gave it as my opinion that they did not come within the act of 1838.

In consequence of that Executive construction, Congress has declared the law to mean that, *non obstante*, that apparent inconvenience, the law of 1838 does embrace the case of widows whose husbands were alive in 1832. Strictly interpreted, this means only that the widows in question take something; it does not

settle how much they take, or when they begin to take under the act of 1838. That has been settled, and, do doubt, very sensibly settled, by your predecessor, according to principles laid down by mine, and no doubt according to the general principles of our republican policy, adverse to pensions at best, and particularly adverse to double pensions. But the joint resolution is general; it is passed in a full view of the objection. It orders the law of 1838 to be carried into effect without reserve; and the words of that law are express: the widow shall take for five years, beginning in 1836. *Ita lex scripta est.* I do not see any better reason to limit the claim by implication than to reject it altogether; but to reject it is impossible in the face of the resolution. If my opinion is to govern you, and the practice of your department to be changed, you will pay, according to the letter of the law, from 1836.

To the SECRETARY OF WAR.

H. S. LEGARE.

[87.]

"BALANCES OF PENSIONS DUE AT DEATH OF PENSIONERS—TO WHOM PAYABLE.—Where the husband of the applicant, Commodore David Porter, in his life-time, applied for a pension for disability incurred in 1803, and the same was allowed by the proper department, at the rate of forty dollars per month, to take effect from the 24th day of January, 1825, when he retired from service in the navy; and then, in 1839, made an application for arrears from 1803, under the provisions of the act of 3d of March, 1837, and received a reply from the Secretary of the Navy, deciding that there was due him a pension, at the rate of twelve dollars and fifty cents per month, from 1803, when his disability was incurred, to the 24th of January, 1825, but did not receive the same in his lifetime; and the widow applies for it after his death—HELD, that such allowance exists in the form of a debt due Commodore Porter, and the legal representatives are entitled to receive it.

"It is so much money in the hands of the government to the credit of Commodore Porter, which belongs, since his death, to his executor, if he has left a will, or to his administrator if he has died intestate."

OFFICE OF THE ATTORNEY GENERAL, August 28, 1843.

SIR: The application of Mrs. Evelina Porter, referred to this office for my opinion by your communication of the 15th instant, is based upon the following facts: Commodore David Porter, her husband, in 1838, made application for a pension for a disability incurred in 1803, which was allowed by the proper department, at the rate of forty dollars per month, to take effect from the 24th day of January, 1825, when he retired from service in the navy of the United States. In February, 1839, he made a second application, claiming his arrears of pension from 1803, under the provisions of the act of the 3d of March, 1837. Mr. Paulding, then the Secretary of the Navy, by his letter to the commodore, under date of the twelfth of February, 1839, is shown to have entertained this demand; and to have decided, that there was due to him, under the act of 1837, a pension at the rate of twelve dollars and fifty cents per month from 1803, when his disability was incurred, to the 24th of January, 1825, when his allowance, upon the application of 1838, commenced. The sum thus ascer-

tained to be due was not paid to the commodore during his lifetime, and Mrs. Porter now claims it, as properly payable to her for the benefit of herself and daughters; and the question propounded for my opinion is, "whether, under the circumstances above stated, Mrs. Porter is entitled to said arrears of pension from 1803 to 1825?"

The acts of Congress more especially affecting this case, are those of 1800, ch. 33, sec. 8, and 1837, ch. 406, sec. 2. Their provisions seem to me to be clear and unambiguous, and, having been acted on in reference to this particular case by the competent authority, undoubtedly embrace the present claim. The decision of Mr. Secretary Paulding, upon the application of Commodore Porter, is in the nature of a judgment rendered by a tribunal of competent *jurisdiction*, which settled the rights of the claimant, and put him upon the footing of an acknowledged creditor, to an ascertained amount, of the government. As such creditor he might at any time during his life have demanded payment, which would not and could not rightfully have been refused him. The fact of his forbearance of that demand does not, I think, extinguish this debt; but it remains due, and can be discharged only by payment to his legal representatives. I have said legal representatives, because Mrs. Porter, *qua* his widow, has no claim on this fund. In the view I have taken of this case, the sum due is in the precise predicament of any other money to which the commodore at the period of his death was entitled. It is so much money in the hands of the government to his credit, which belongs, since his death, to his executor, if he has left a will, or to his administrator, if he has died intestate.

With the disposition of the fund the government has nothing to do; that is a matter within the control of the local tribunals charged with the settlement of his estate; the whole extent of the duty and responsibility of the government being to pay over the amount in its keeping to those who represent the deceased, to whom it belonged.

In expressing this opinion of the validity of this claim, I by no means design to disturb any usage that has obtained in the Pension Office, which, independently of the respectable authority under whose sanction it has been established, is entitled to the highest consideration, because it is usage: it being of the first importance in the administration of the government, as far as it operates upon the pecuniary rights of the citizen, that its rule of action should be uniform. I intend only to say that this case, under its particular circumstances, is covered by the express provisions of the law, and is fortified by the clearest equity.

The papers are returned.

JOHN NELSON.

To the SECRETARY OF THE NAVY.

[88.]

***PENSION TO WIDOWS OF OFFICERS, &c., IN THE MARINE CORPS.**—The widow of the late Captain Elijah L. Weed, of the marine corps, holding the office of quartermaster, and entitled to sixty dollars per month, at the time of his death, is, in the opinion of the Attorney General, entitled to half-pay.

"But, as a committee of the Senate have taken a different view of the law, and have made a report against her, a gratification of the claim is not recommended to be made until a legislative interpretation shall be given to the laws."

ATTORNEY GENERAL'S OFFICE, *November 10, 1843.*

SIR: The case of Mrs. Julia Weed, which, by your communication of the 8th instant, was referred for my consideration, has been carefully examined. The claimant is the widow of the late Captain Elijah L. Weed, of the marine corps, who died in the naval service on the 5th of March, 1838. At the time of his death he was quartermaster of the corps, and held the lineal rank of captain: and the question submitted to me is, "what is the rate of pension to which Mrs. Weed is entitled?"

To determine this, it is necessary, in the first place, to ascertain the nature of the appointment held by Captain Weed at the time of his death. He was a quartermaster under the provisions of the act of the 30th of June, 1834, the first section of which enacts that the marine corps shall thereafter consist of one colonel commandant, one lieutenant colonel, four majors, thirteen captains, twenty first lieutenants, twenty second lieutenants, one adjutant and inspector, one paymaster, one quartermaster, one assistant quartermaster, one sergeant major, &c.

The 6th section of said act provides that the staff of said corps shall be taken from the captains or subalterns of the corps; and the 7th section requires that the appointment of officers, authorized by that act, shall be submitted to the Senate for their advice and consent. It is quite clear, therefore, that Captain Weed, assuming him to have been regularly appointed, was at the time of his death not a captain, discharging the duties of a quartermaster merely, but a quartermaster, nominated, confirmed, and commissioned as such. The next inquiry is, what was the monthly compensation of a quartermaster in the marine corps on the 1st day of January, 1835, the period designated by the act of the 3d of March, 1837, as fixing the amount of the pensions to be allowed under its provisions? The act of the 30th June, 1834, already referred to by its 5th section, declares "that the officers of the marine corps shall be entitled to and receive the same pay, emoluments, and allowances, as are now or may hereafter be allowed to officers of similar grades in the infantry of the army, except the adjutant and inspector." The act of the 2d March, 1821, section 5, provides, in reference to the same grade of infantry of the army, "that there shall be two quartermasters, with the rank, pay, and emoluments, of majors of cavalry." The 2d section of the act of the 12th of April, 1808, prescribes that the pay of majors of cavalry shall be *sixty dollars per month*.

Quartermaster Weed was, therefore, unquestionably entitled,

as the law stood on the 1st day of January, 1835, as well as at the period of his death, to compensation at the rate of sixty dollars per month. How was he entitled to it? As a captain discharging the duties of a quartermaster, and receiving the increased allowance for extra services? By no means; but as quartermaster, irrespective of his lineal grade, regularly appointed and commissioned. It was not necessary, under the act of 1834, that the deceased should have held the rank of captain in the line, to render him eligible as quartermaster. The President was equally competent to appoint a subaltern to that station; and, if so appointed, such subaltern would have been alike entitled, as quartermaster, to sixty dollars per month, which could not have been the case had it been the purpose of the law to promise an extra compensation for the service, and not to provide a remuneration for the office. And this design is rendered strikingly apparent by the 7th section of the act of 1821, already quoted; which, whilst it declares that quartermasters shall receive the pay and emoluments of majors of cavalry, provides for ten assistant quartermasters, who "shall, in addition to their pay in the line, receive a sum not less than ten dollars, nor more than twenty dollars, per month, to be regulated by the Secretary of War."

Having thus ascertained the extent of compensation to which quartermaster Weed, under the act of 1835, was entitled, and that he was so entitled not as captain, with an extra allowance for extra services, but in virtue of his appointment and commission as quartermaster, I will advert to the provisions of the act of the third of March, 1837, by which the claim of Mrs Weed is to be graduated. The 1st section of that act declares, "that if any officer, seaman, or marine, have died, or may hereafter die in the naval service, leaving a widow, and if no widow a child or children, such widow, and if no widow such child or children, shall be entitled to receive half the monthly pay to which the deceased would have been entitled under the acts regulating the pay of the navy, in force on the first day of January, one thousand eight hundred and thirty-five, to commence from the time of the death of such officer, seaman, or marine."

I confess that I cannot detect the slightest ambiguity in these terms. They are plain, clear, and definite. They give to the widow, &c., one half the monthly pay to which the deceased would have been entitled had he lived and continued to discharge the duties of his office. Now who can doubt, if quartermaster Weed had lived, and continued to discharge the duties incident to his appointment, that he would have been entitled to receive a compensation at the rate, for pay, of sixty dollars per month? And if this be so, the unequivocal language of the law would seem to settle the question under consideration. I am prepared, therefore, to say, that but for the action of a former Secretary of the Navy and of the Senate of the United States upon this claim, I should be undoubtingly of opinion that Mrs. Weed was entitled to her pension

at the rate of thirty dollars per month. But this question is not *res integra*. It has been settled by a former Secretary of the Navy, and his decision has received the sanction of the Senate upon the deliberate report of one of its own committees. Under these circumstances I cannot recommend the gratification of the claim by the Executive. It is a case proper for legislative interpretation, and one in which, in the view I have taken of the various laws applying to it, I do not think Congress would hesitate to interfere. The papers accompanying your communication are herewith returned.

To the SECRETARY OF WAR.

JNO. NELSON.

[89.]

"PENSIONS.—The second section of the act of the twenty-third of August, 1842, repeals the first section of the act of March 3, 1837, and no allowances can now be made under it.

"It was continued in force temporarily by the act of August 16, 1841, in regard to certain cases; but was revoked by the act of 1842, leaving no remedy for those cases except in an application to Congress."

ATTORNEY GENERAL'S OFFICE, *April 15, 1844.*

SIR: The communication of the Commissioner of Pensions, under date of the 12th, transmitted with yours of the 13th instant, has been considered, and I am of opinion that the second section of the act of August 23, 1842, operates a total repeal of the first section of the act of August 23, 1842, operates a total repeal of the first section of the act of March 3, 1837, and that the case recently presented to the Commissioner of Pensions cannot therefore be entertained by him. The effect of the act of August 16, 1841, was temporarily to continue in force the act of March 3, 1837, in regard to a class of claims to which that now before the Commissioner clearly belonged, but which not having been preferred within the period limited by that act, and the whole power conferred on the Commissioner of Pensions by the original act having been revoked by the repealing law, can now be allowed by Congress alone. The case is an equitable one, for which, upon a proper application to the legislative branch of the government, provision would doubtless be made.

To the SECRETARY OF THE NAVY.

JNO. NELSON.

[90.]

"PENSIONS TO CHILDREN OF DECEASED PASSED MIDSHIPMEN.—The child of passed midshipman Bacon is not entitled to full five years' pension under the acts of 30th June, 1834, and 15th June, 1844, but only to the remainder of the five years' pension not received by the widow during her lifetime."

ATTORNEY GENERAL'S OFFICE, *January 4, 1845.*

SIR: In reply to the question addressed to me in your communication of the 26th of December last, I have the honor to state that, construing the act of the 15th of June, 1844, in connexion

with that of the 30th of June, 1834, I am of opinion that the infant child of the late passed midshipman Frederick A. Bacon is entitled, under the second section of the first-mentioned act, only to the remainder of the five years' pension not received by the widow during her lifetime, and not to a full five years' pension.

To the SECRETARY OF THE NAVY.

JNO. NELSON.

[91.]

"PENSIONS GRANTED TO WIDOWS, &c., BY ACT OF MARCH 3, 1845.—The pensions granted to widows, &c., by the act of the 3d March, 1845, commence from the period of their cessation under the former acts of 1834, 1837, and 1841, respectively."

ATTORNEY GENERAL'S OFFICE, *March 19, 1845.*

SIR: In your communication of the 14th instant, you request my opinion on a question submitted to you by the Commissioner of Pensions in relation to the proper construction of the naval pension act of 3d March, 1845. The Commissioner states the question to be: "Whether the pensions granted by this act shall commence when the last five years' pensions ended, or when the last pensions, under the act of 1837, were paid to the pensioners respectively." The act of 3d March, 1845, embraces only the cases of those widows whose husbands have died under circumstances to entitle them to pensions under the provisions of the pension act of 30th June, 1834. Pensions granted by that act terminated in 1839. By the act of 1837, a provision was made for pensions to widows of officers, seamen, and marines, who had died in the naval service, without specifying the mode of the death. Its terms were more comprehensive, and embraced many cases which were not within the provisions of the act of 1834; while those entitled under the act of 1834 were clearly entitled under the act of 1837; and many thus entitled applied and received the benefits of this act. The question submitted depends on the inquiry whether the act of 1837 may be regarded as a renewal of the pensions previously granted. If it be not so construed, a widow whose pension expired in 1839, granted under the act of 1834, may have received, under the act of 1837, her pension, by reason of the death of her husband, from the 30th June, 1839, to 31st August, 1842; and by the act of the 3d March, 1845, receive the same pension for the same cause, during the same time; thus receiving a double pension for the same period of time. This cannot be presumed to have been the intention of Congress; nor will such a construction give effect to the proviso to the act under consideration. I am, therefore, of opinion that the act of 1837 was a renewal of the pensions previously granted for five years, within the meaning of the act of 3d March, 1845; and that widows' pensions, under this act, shall commence from the period at which they ceased, whether under the act of 1834, or that of 1837, or the act of the 16th August, 1841.

To the SECRETARY OF THE NAVY.

J. Y. MASON.

[92.]

"PENSIONS GRANTED TO WIDOWS, &c., BY THE ACT OF MARCH 3, 1845.—The act of March 3, 1845, extends a pension for five years to those widows who received pensions under former acts in consequence of the death of their husbands having been occasioned by wounds received, or by accident, or by disease contracted, whilst acting in the line of their duty as officers, seamen, or marines.

"The act of 1837 was a renewal of pensions previously granted to widows entitled under the act of 1834, within the meaning of the act of March 3, 1845.

"The fact of their being placed on the pension roll by virtue of the more comprehensive terms of the act of 1837, does not affect their rights under the act of March 3, 1845.

"The terms of the act are fully satisfied by extending its provisions to cases which were within the act of 1834, although the pensions were granted for an indefinite period; and this, whether the pensions were granted by the Commissioner of Pensions under the act of 1834 or that of 1837, provided the pensions granted were authorized by the act of 1834."

ATTORNEY GENERAL'S OFFICE, *April 14, 1845.*

SIR: I have considered the general question presented in your letter of the 10th instant, as to the effect of the act of March 3, 1845, renewing certain naval pensions for the term of five years, and its application to the particular case of Mrs. Ann J. Ross, widow of Lieutenant Ross of the marine corps, who was killed in battle with the Seminole Indians in the month of December, 1836, the facts of whose case are set forth in the letter addressed by the Commissioner of Pensions to the Secretary of the Navy on the 3d instant. In the letter which I had the honor to address to you on the 19th ultimo, I expressed the opinion that the act of 1837 was a renewal of the pensions previously granted to widows entitled under the act of 1834 within the meaning of the act of March 3, 1845. By the death of her husband in battle, Mrs. Ross was entitled under the act of 1834. The fact of her being placed on the pension roll by virtue of the more comprehensive terms of the act of 1837, does not affect her rights under the act of March 3, 1845. The purpose of Congress was manifestly to extend a pension for five years to those widows who had previously received pensions in consequence of the death of their husbands, (being officers, seamen, and marines,) who had been killed in battle, or who had died by reason of a wound received in the line of their duty, or who had died from disease contracted, or of a casualty by drowning or otherwise, or of injury received, while in the line of their duty. This intention would be defeated in cases of the most meritorious character, if the words employed be construed to embrace only such cases of pension as were granted for five years. The terms of the act are fully satisfied by extending its provisions to cases which were within the act of 1834, although the pensions were granted for an indefinite period; and I am of opinion that this may be done whether the pensions were granted by the Commissioner of Pensions under the act of 1834, or under that of 1837, provided the pension granted would have been authorized by the act of 1834. Mrs. Ross is, therefore, entitled to the benefit of the act of March 3, 1845, subject to its restriction.

To the SECRETARY OF THE NAVY.

J. Y. MASON.

[93.]

"PENSIONS—HOW AFFECTED BY ACT OF MARCH 3, 1845.—The fourth section of the act of 3d of March, 1845, providing that accounts adjusted by the accounting officers of the treasury shall not be re-opened without authority of law, and that no account shall be acted upon at the treasury unless presented within six years from the date of the claim, does not affect applications under a general law for pensions.

"Pensions are gratuities, and are not claims or accounts, within the meaning of the statute; yet when these are once placed on the pension roll, they become claims to semi-annual payments, which, if not asserted within six years, cannot be audited without the authority of Congress.

"The act does not affect claims for half-pay to officers of the Virginia State line, provided for by the act of the 5th of July, 1832."

ATTORNEY GENERAL'S OFFICE, April 22, 1845.

SIR: Your letter of the 15th of March, with the accompanying communication from the Commissioner of Pensions, has received a most careful examination. The questions presented are of great importance to the community, and in the daily business of the Treasury Department. The fourth section of the act of the 3d of March, 1845, making appropriations for the civil and diplomatic expenses of government, directs "that from and after the passage of this act, no accounts which have been adjusted by the accounting officers of the treasury shall be re-opened without authority of law; nor shall the accounting officers of the treasury act upon any account which shall not be presented within six years from the date when the claim first existed, unless the person having the claim was an infant, lunatic, or *feme covert*, and then within six years after disability: provided, that this section shall not apply to cases where special acts have passed, or shall pass, for the relief of individuals." This is a section of an appropriation act, and constitutes a qualified act of limitation, suspending proceedings at the treasury without taking away the right of individual claimants, who may appeal to Congress in all cases where redress is denied them by the inhibition thus imposed on the accounting officers. It repeals no law, and does not operate in any case either in re-opening adjusted accounts, or in taking up for audit, accounts of more than six years' standing, if the claim be founded on a special act of Congress passed for the relief of individuals. The Commissioner of Pensions asks if its provisions apply to several descriptions of claims which he details, and which may be included in two classes: 1st, to pensions under the various circumstances stated; 2d, to claims for half-pay under the act of July 5, 1832, entitled "An act to provide for liquidating and paying certain claims of the State of Virginia."

1st. Does the fourth section apply to pensions? If the pension has been granted by a special act for the relief of individuals, the law does not apply. If the pension applied for is under a general law, then it does not appear to me that the section under consideration affects the application. A pension is a gratuity, and is not a claim or account, within the meaning of the statute; but, if once placed on the pension roll, and thus acquiring a legal claim to a semi-annual payment of a certain sum of money, the pen-

sioner shall fail to assert this claim for six years, he cannot have his account audited without the authority of Congress. The computation of time is to commence from the failure to demand the payment when due, and not from the date of the pension certificate.

2d. The act of the fifth of July, 1832, for the liquidation and payment of certain claims of the State of Virginia, in its first section directs the payment to that Commonwealth of her accounts for half-pay paid to the officers of the State line for services in the war of the Revolution; the second provides for the payment of judgments recovered against the State by officers thus entitled—which judgments had not been paid by the State; and the third directs the settlement and payment of the half-pay claims of the officers who were entitled on the principles settled by the supreme court of appeals of Virginia, who had been paid their claims, or prosecuted them to judgment. Before the passage of this act, the officers of the Virginia State line and navy had no claim on the treasury of the United States for the fulfilment of an engagement entered into with them by the State itself. It was a part of the revolutionary debt, and by this act the United States assumed the liability, and made provision for this class of officers by agreeing at once to refund to the State the payments which she had made to pay to her the unsatisfied judgments recovered, and in a separate section provides for the settlement and payment of the half-pay claims of those who had not recovered judgment or been paid. Does the fourth section of the appropriation act apply to these claims? They are clearly within its operation, unless the proviso protects them. It declares that this section shall not apply to cases where special acts have passed, or shall pass, for the relief of individuals. The inquiry, therefore, is limited. Is the act of 1832 a special act for the relief of individuals?

“Municipal laws are public and general, or private and special. Public acts relate to the public at large; private acts to certain individuals, or to particular classes of men. Statutes which concern all the clergy are general laws, but those which concern bishops only are special. In a general act there may be a private clause. A general or public act regards the whole community; special or private acts relate only to particular persons or to private concerns.” These are the legal definitions given by Dwaris in his Treatise on Statutes. Applying them to the case under consideration, the conclusion seems to me unavoidable. The State of Virginia made a promise of half-pay for life to a class of officers engaged in her service in the war of the Revolution. To some of these she made payment; others recovered judgment against her; and those individuals of the class who had received no payment and recovered no judgment were provided for in the 3d section of the act of 1832. This section afforded relief to particular persons, and did not regard either the whole community or the whole of the class to which they belonged, and, according to the established rules of construction, is a special statute, which

passed for the relief of individuals who, without it, had no claim on the Government of the United States. After a most careful examination, I am decidedly of opinion that claims founded on the act of 5th July, 1832, are protected by the proviso from the operation of the 4th section, which forms the subject of inquiry, and are affected by its inhibitions.

To the SECRETARY OF WAR.

J. Y. MASON.

[94.]

"ARREARS OF WIDOWS' PENSIONS—TO WHOM PAYABLE.—There is no authority for making payment of the arrears of pensions due widows of revolutionary officers at their death, who have left no children, to executors or administrators.

"Even where widows have died leaving children, the arrears cannot be received by executors and administrators as assets for the payment of the decedents' debts."

ATTORNEY GENERAL'S OFFICE, *July 14, 1846.*

SIR: The papers which accompanied your letter of the 17th January ultimo, show that Mrs. Paulina Legrand, as widow of Captain Edmund Read, of Major Nelson's corps of Virginia State cavalry, was a pensioner by reason of the services of her said deceased husband in the war of the Revolution. Her pension was paid to March, 1844, and she died on the 5th February, 1845, leaving no child or descendant. You refer for my opinion the question, whether the arrear of pension, unpaid at the time of her death, can be paid to her administrator? He contends that he is so entitled, by the 2d section of the act of March 3d, 1829. The Commissioner of Pensions, under the direction of the Secretary of War, has disallowed the claim, under the provisions of the act of June 19, 1840.

In the edition of the laws recently published by Little and Brown, the act of March 2d, 1829, is noted as obsolete. The 1st section of the act of 1840 provides for the case of male pensioners; the 2d, for females. The acts giving pensions to widows of revolutionary officers and soldiers have been enacted since 1829; and this fact clearly shows that Congress did not, when passing the act of 1840, consider that there was any law providing for the disposition of arrears of female pensions. The act of 1829 is superseded by the act of 1840. The former clearly related to the pension laws in force at the date of its passage. The more enlarged and comprehensive system of pensions introduced by laws subsequently passed, founded in gratuitous bounty to the persons who were its beneficiaries, led to the act of 1840. By the provisions of these laws, care is taken to prevent the arrears of pensions, in any case, becoming assets for the payment of debts, or for distribution according to any rule of descent or inheritance, except that which is prescribed by Congress—a power which belongs to the States, and is not conferred by the constitution in regard to any vested right or chose in action. But the pension being a bounty conferred by Congress, the authority ex-

its to withdraw it, or to prescribe the conditions on which it is to be paid, and the person or persons who are to receive it. In making the payment, the Executive must look to the law for authority. There is no such authority to make payment to the administrator, where the pensioner died leaving no children.

The 2d section of the act of June 19, 1840, authorizes payment to the executor or administrator only where the pensioner died "leaving children;" and then the payment is not made to him as assets, to be disposed of according to his official duty as to the effects of his decedent; but the law declares, "the same shall not be considered as a part of the assets of the estate, nor liable to be applied to the payment of the debts of said estate in any case whatever;" and the payment of such arrears under 1st and 2d sections is declared to be for the sole and exclusive use of the children of the deceased pensioner. Now, if there be no such persons for whose exclusive use the administrator or executor is authorized to receive, and payment is made to him as such, how would he be held to dispose of them? Such arrears are not assets, subject to debts or distribution, according to the local laws; and there are no persons in being entitled to demand payment by the act of Congress. I am clearly of opinion that the administrator or executor of Mrs. Legrand is not entitled to receive the arrears of her pension which were unpaid at her death.

To the SECRETARY OF WAR.

J. Y. MASON.

[95.]

"PROOF REQUISITE TO PENSIONS TO WIDOWS UNDER ACT OF 1846.—The 2d section of the act of May 7, 1846, was intended to facilitate applications of widows to pensions founded on their marital relations, by operating on the proof required.

"To establish their claims it is sufficient for widows to prove that their husbands were entitled to pensions, and that they are the widows of such pensioners.

"The fact that the husbands were upon the roll and drew pensions, is presumptive evidence that they were entitled to them; yet, if they were not, that fact may be proved.

"The *onus*, however, is upon the government to show that they were not entitled.

"General reputation and cohabitation are, in general, sufficient evidence of marriage; but as this is only presumptive, it may be rebutted by countervailing testimony.

"The law should be construed liberally and favorably towards applicants."

ATTORNEY GENERAL'S OFFICE, *June 23, 1846.*

SIR: I have considered the questions presented in the communication of the Commissioner of Pensions of the 19th May ult., which, on the 23d of that month, you referred to me for my opinion.

The 2d section of the act making appropriations for the payment of revolutionary and other pensions of the United States for the year ending the 30th of June, 1847, approved May 7, 1846, is as follows:

"*And be it further enacted*, That no widow entitled to a pension under existing laws, and claiming a pension, whose husband was drawing a pension at the time of his decease, shall be required in such case to furnish any further evidence that said

husband was entitled to a pension; nor shall any evidence, in any case, be required to entitle the widow to a pension, when the evidence is in the archives of the government, other than such proof as would be sufficient to establish the marriage between the applicant and the deceased pensioner in civil personal actions in a court of justice: *Provided*, That, upon a revision of the testimony in the case of the deceased husband, the Commissioner be satisfied that the pension was properly granted."

The section was manifestly intended to facilitate the application of widows to pensions, founded on their marital relation to deceased pensioners. To establish, on her part, such a claim, the applicant must prove, first, that her husband was entitled to a pension; and second, that she is his widow, within the terms of the laws granting widows pensions. The section under consideration operates on the proof to be required in both points.

1. The widow of a husband who was drawing a pension at the time of his decease is not to be required to furnish any further evidence that her said husband was entitled to such pension. This is the enactment in the body of the section, and prescribes the general rule. The proviso applies exclusively to this member of the section, and restrains its operation. It provides "that, upon a revision of the testimony in the case of the deceased husband, the Commissioner shall be satisfied that the pension was properly granted." Without this proviso, the enjoyment of a pension by the husband at the time of his death would have been conclusive on that point in the widow's case. The proviso makes it but presumptive evidence, liable to be rebutted; but it is sufficient evidence to establish the fact, unless it is rebutted by the Commissioner of Pensions, on grounds which ought to be stated for explanation by the applicant: the *onus* is on the agents of the government to bring a case within the proviso. And to the same effect is the provision of this section: "Nor shall any evidence be required to entitle the widow to a pension, when the evidence is in the archives of the government, other than such proof," &c. This makes it the duty of the government officers to search the archives, and to ascertain if there be evidence in them to establish the claim of the widow.

I do not suppose that the clause can require more than an examination of the papers and records relating to the services of the deceased husband, and the evidences of his title to a pension. But the duty of making the examination, to find support for the widow's claim, shows the spirit in which the law was enacted.

2. To establish the relation of widow to the deceased, a marriage must be proved; and this section of the law prescribes the proof required to be that "which would be sufficient to establish the marriage between the applicant and the deceased in civil personal actions in a court of justice." The general rule is, "that in all civil personal actions except that for criminal conversation, general reputation and cohabitation are sufficient evidence of marriage." (2 Starkie on Evidence, part iv, page 939, and au-

thorities cited; and 4 Burrows, 2057; 4 Johnson's N. Y. Rep., 52-'3—Fenton *vs.* Reed.) Under this section, therefore, to establish the relation of widow, proof of a marriage in fact cannot be required—that is, by witnesses present at the ceremony, or by official records: general reputation and cohabitation are sufficient, *prima facie*. But as this is presumptive evidence, it may be rebutted by countervailing testimony. In terms, the operation of the section does not extend beyond these two points. Where it is necessary, to establish the claim of the widow, to prove the date of the marriage, it is incumbent on her to produce satisfactory proof to the Commissioner; but the proof ought to be considered in the spirit in which this law has been passed, of liberality to the applicant. But still the evidence must be satisfactory. And as the marriage may, by virtue of this section, be established by presumptive testimony, its date, as an incident, may be established by evidence of the same character which in civil personal actions would establish births, pedigree, &c.

To the SECRETARY OF WAR.

J. Y. MASON.

[96.]

"POWER OF THE PRESIDENT RESPECTING PENSION CASES.—The President is required to see that the laws are faithfully executed, but is not obliged to execute them himself.

"The law has designated the officer to decide upon applications for pensions, and has provided for no appeal to the President: wherefore, he will not undertake to revise the decisions of the Commissioner."

ATTORNEY GENERAL'S OFFICE, August 4, 1846.

SIR: On the 26th June ultimo, you referred to me, "for a report," the papers in the case of an appeal to the President from a decision of the Commissioner of Pensions, which had been approved by the Secretary of War, denying to the distributees of Mrs. Esther Johnson, widow of Colonel Jonas Johnson, deceased, an increase of pension. From the papers, which are voluminous, it appears that Mrs. Johnson made application, in November, 1839, for a pension, under the act of July 4, 1836. It was decided at the Pension Office that the proofs exhibited established four months and eighteen days' service on the part of her husband in the war of the revolution. On appeal, this decision was affirmed by Mr. Poinsett, Secretary of War. Additional proofs were filed, and, on the 16th August, 1843, a report was made on their effect from the Pension Office to the Secretary of War, Mr. Porter, who decided that they established full six months' service; and Mrs. Johnson accordingly received her certificate of pension. She is since dead, and her distributees have filed additional testimony, and asked for an increase of the rate of pension allowed to Mrs. Johnson, on the ground of a greater term of service on the part of her deceased husband than six months. In January, 1846, the Commissioner disallowed the claim; and on appeal, the Secretary of War decided that the additional evidence "did not vary the

aspect of the case, nor add to its strength, being only of the same indefinite character, as to the fact of further service, or the character thereof, as that upon which Mr. Porter decided." From this decision an appeal has been taken to the President. The object of this appeal is stated by the agent of the distributees to be, "to have their case referred to and examined by the Attorney General of the United States, for his decision and report, whether the pension laws have been duly administered in this case;" and that the President will "order such other and further relief in the premises as the justice and merits of the case may demand." It is, therefore, an appeal to the President to have a pension allowed by his order, which the Commissioner, under the direction of the Secretary of War, has disallowed.

A preliminary inquiry arises, as to the extent of the President's power in this respect. It is the constitutional duty of the President to take care that the laws be faithfully executed. But the constitution assigns to Congress the power of designating the duties of particular subordinate officers; and the President is to take care that they execute their duties faithfully and honestly. He has the power of removal, but not the power of correcting, by his own official act, the errors of judgment of incompetent or unfaithful subordinates.

The extent of the President's duty and power, under the injunction to see the laws duly executed, has been fully examined and stated by several of my predecessors in this office; and, without encumbering this communication with quotations, I respectfully refer you to the opinions of Mr. Wirt, of October 20, 1823, and July 27, 1824, and the opinion of Mr. Taney of April 5, 1832.

Considering the high constitutional duties of the President, which occupy his whole time, it requires no argument to show that he could not acquit himself, by their adequate performance, if he were to undertake to review the decisions of subordinates on the weight or effect of evidence in cases appropriately belonging to them. Nor is it within the scope of the duties of this office to review and revise the decisions of co-ordinate departments of the government on questions of fact. If, in the consideration of this question, the Secretary had doubted on any question of law, he would have sought and obtained the opinion of the Attorney General. But there does not appear to be, in this case, any disputed question of law. It is not denied that, under the act of 4th July, 1836, Mrs. Johnson was entitled to receive the annuity or pension which might have been allowed to her husband by virtue of the act of June 7, 1832, if he had been living at the time it was passed; that her husband, if living, would have been entitled by this act to a pension, on proof that he served in the continental line, State troops, or militia, a term or terms in the whole not less than six months; or that the amount of the pension depended on the proof of the length of time during which he served. The decision from which the appeal is proposed is made on the effect of the testimony, and with an express concession of

the construction of Mrs. Johnson's legal rights. The error complained of is one of fact, and is, that the Commissioner has not given to the evidence the effect of establishing a length of service which, in the opinion of the distributees, it ought, properly considered, to have.

Can the President revise this decision, and give to the testimony an effect greater than that accorded to it at the Pension Office, and, by his official act, declare that a pension is to be given for a longer term of service than is allowed by the subordinate officers charged by law with the consideration and determination of such cases? I think not. The act of June 7, 1832, provided for its execution by the Secretary of the Treasury. On the 28th of the same month, by a joint resolution of Congress, all the duties which devolved on the Treasury Department were transferred to the Secretary of War. The Commissioner of Pensions is by law charged with the performance of this duty, under the direction of the Secretary of War. By one of the prescribed rules and regulations for the government of his subordinates in executing this act, each applicant is required "to state the names and rank of the field and company officers, the battles in which he was engaged, and the country through which he marched." These specifications were intended to enable the Commissioner, by comparing them, as stated, with the rolls and documentary proofs in his office, to detect misrepresentations, to correct errors, and to guard against frauds. How difficult, if not impossible, would it be for the President or Attorney General to undertake to make such comparison, or to detect any error which might in this respect arise in the Pension Office! The case under consideration affords a very strong illustration of the wisdom of this rule. The testimony of many of the witnesses was disregarded, because their statements in reference to Colonel Johnson's services were inconsistent with the sworn declarations in their own applications for pensions. I am clearly of opinion that the President ought not to entertain appeals in such cases.

The view of the case now presented does not leave the applicants without remedy. They can apply for relief to Congress, whose power cannot be doubted.

If, however, you differ with me in my views of your constitutional duty and power, I will examine the proofs in the papers, and those referred to in the Commissioner's report as having influenced his judgment, and will give you the result with as little delay as practicable.

To the PRESIDENT.

J. Y. MASON.

[97.]

"PENSIONS TO WIDOWS UNDER ACT OF 1845.—The act of 3d March, 1845, authorizes the renewal of pensions to such widows of officers, seamen, and marines only as had enjoyed a five years' pension under previous laws, and which had ceased in consequence of the expiration of the period for which the same had been granted or renewed.

"Widows who had not been such for five years, or who had not exhausted their five years' pension under former laws, are not provided for.

"The applicants in this case not having been widows for the period of five years, and not having exhausted their pensions under former laws, are therefore not entitled to the benefit of the act of 3d March, 1845, but are left to the generosity and justice of Congress in the premises."

ATTORNEY GENERAL'S OFFICE, *January 23, 1847.*

SIR: I had the honor to receive your letter of the 2d ult., requesting my opinion on the claims of Elizabeth E. Chandler and Catharine L. Armistead, for a renewal of their pensions, under the act of 3d March, 1845. By that it is provided "that the pensions for the period of five years, which have been heretofore granted out of the naval pension fund to the widows of officers, seamen, and marines, who have been killed, or died by reason of a wound received in the line of their duty, or who have died by reason of disease contracted, or of a casualty by drowning or otherwise, or of injury received while in the line of their duty, and which pensions have ceased in consequence of the expiration of the period for which they were originally granted, or for which they were subsequently renewed, shall be continued for another period of five years to such of said widows as may have remained unmarried, to commence from the day on which such pensions respectively terminated." According to the statement contained in your letter, the husband of Mrs. Chandler died in July, 1841, of a disease contracted while he was in the performance of his duty. She was, therefore, entitled to a pension either under the law of 1834 or that of 1837; the language of both acts including her case. She received a pension under the latter, commencing from the date of her husband's death, and continuing until August, 1842—a period of one year and a month, when the law of 1837 was repealed. It was subsequently decided by the department that in all cases where a widow who was equally entitled under the law of 1834 had received her pension under the act of 1837 for a less period than five years, and by the repeal of that law had been cut short of her five years' pension, might still be pensioned for the remainder of the term under the law of 1834. Under this decision Mrs. Chandler's pension for the residue of her term was renewed on the 11th day of March, 1845, to take effect from August, 1842, and expired in July, 1846. The case of Mrs. Armistead is similar in all respects necessary to be considered in the decision of the question submitted. Her husband died on the 14th day of April, 1841; and on the 17th day of July following she was allowed a pension under the act of 1837, after the repeal of that law; being within the class of widows entitled to a five years' pension under the act of 1834. A pension certificate was issued in her favor under that law on the 16th day of May, 1845. Her pension commenced from the 14th of April, 1841; but the amount previously paid her under the act of 1837 was directed to be deducted. Her five years expired on the 14th of April, 1846. Upon this statement of facts the question submitted by you for my consideration is whether Mrs. Chandler

and Mrs. Armistead may now have properly the benefit of the act of the 3d of March, 1845, as widows whose pensions had expired at the time the act passed; or whether they are concluded by the renewal of their pensions and the receipt of the same, under the act of 1834, subsequent to the passage of the law of 1845. It is very clear that the act of the Commissioner of Pensions, in renewing their certificates, cannot change the law, or in any respect impair their rights, if any they have, to claim the bounty of the government under that act. And it is not less clear that the receipt of the periodical payments, secured by the certificates, is equally inefficacious to any such result. The true construction of the act took date from its passage, uninfluenced by any extraneous circumstances or subsequent event. Its meaning must be gathered from its language, in connexion with the general system of legislation upon the same subject matter. While, therefore, I am of opinion, after a careful examination of the act in question, that the cases of Mrs. Chandler and Mrs. Armistead do not come within its provisions, it is proper to remark that my opinion is not based in any respect upon the ground assumed in the inquiry submitted, that these parties are estopped or concluded by any act or event subsequent to the passage of the act under which they now claim. That doctrine cannot be sustained; nor is it necessary to invoke it in this case. Neither of the cases submitted is provided for in the terms of the law relied upon in their behalf. The act, you will observe, is confined to cases where widows have already enjoyed a five years' pension under previous laws, and which had ceased in consequence of the expiration of the period for which it had been granted or renewed.

When the law of 1845 went into operation, neither Mrs. Chandler nor Mrs. Armistead had been a widow for the period of five years. The husband of the former died in July, 1841, and that of the latter on the 14th of April previous. Both, therefore, were then entitled to an unexpired portion of their first five years under the act of 1834. Neither had exhausted their five years' pension under a law then in full force. It is true they were not in the actual receipt of the money; they had not obtained their certificates, as no decision had been made by the proper department. The answer to this is readily given. The act under consideration is not based upon the action of the department, but upon the previous statutes *in pari materia*, especially upon the law of 1834. They were entitled by an existing law; and if entitled, then their pensions had not ceased within the language or spirit of the act of 1845. Their first five years had not expired. The act gives another term of five years to those only whose primary right, whether by original grant or renewal, had ceased in consequence of the expiration of the period for which they were originally granted or renewed. The continuation is extended to those pensions only which have been theretofore granted for the period of five years, to commence from the day on which such pensions respectively terminated. The language is too plain, it seems to

me, to admit of a doubt, that Congress intended to include such cases only as had actually expired at the date of the law. No other construction can be given short of downright legislation. The terms of the act apply so explicitly to past cases, that it cannot be made to include such as have expired since its passage. No provision being made for future cases, they must be left to the justice of Congress, where I have no doubt an appeal might well be made in behalf of all similar claimants.

To the SECRETARY OF THE NAVY. NATHAN CLIFFORD.

[98.]

"PENSIONS TO OFFICERS OF THE NAVY.—A lieutenant otherwise entitled to a pension, is not entitled to receive it whilst on duty and in receipt of his pay as an officer of the navy.

"Nor can he receive it when not on duty, whilst in receipt of the pay allowed to his grade."

ATTORNEY GENERAL'S OFFICE, *May 24, 1847.*

SIR: The questions submitted from the Navy Department in the case of Lieutenant Brownell, are in substance as follows:

1st. Whether he is legally entitled to a pension while on duty, and in receipt of his pay as an officer of the navy?

2. Whether, under the restrictions hereinafter recited, he can receive a pension when not on duty, but receiving the pay allowed to his grade while unemployed?

The act of the 18th February, 1847, granting his pension, contains the following restrictions: that "the payment of said pension be subject to the provisions of the second section of an act passed 16th August, 1841, entitled 'An act for the payment of navy pensions.'"

The second section of the act of 1841, above referred to, recites the conditions upon which the payment of the pensions in certain cases is made to depend, as follows: "that no officer, seaman, or marine, entitled to a pension from the navy pension fund, who receives pay from the public treasury, shall receive more from the said fund than is sufficient to make the whole amount received from both the above named sources equal to the pay fixed by law for the grade to which the officer, seaman, or marine may belong as an officer in the services in which he may be engaged during the year, so that no officer shall receive pay, at the same time, both as a pensioner and an officer in service." It is very clear, in my judgment, that Lieutenant Brownell's case must be governed, and the payments to him regulated, by the rule prescribed in that section. It is expressly referred to, and recognised, in the act granting the pension. The intention of Congress is too clearly manifested to leave any room for doubt. Language more explicit or comprehensive could not well be employed. It is presumed that the reference to this office grew out of the suggestion in the letter of the Commissioner of Pensions, that the second section of

the act of the 16th of August, 1841, was virtually repealed by the proviso of the act of the 30th April, 1844, which declares, "that no person in the army, navy, or marine corps, shall be allowed to draw both a pension as an invalid and the pay of his rank or station in the service, unless the alleged disability for which the pension was granted, be such as to have occasioned his employment in a lower, or some civil branch of the service."

It is a mistake to suppose that the law of 1841 is entirely inoperative; and equally so, that it has been superceded in its application to this case. It often happens in legislation, when there is no repealing clause, that several provisions of law upon the same subject will be found to exist at the same time, as cumulative rules or remedies in no respect inconsistent, and frequently authorizing a wide disparity in the mode of proceeding. Courts have long manifested a disinclination to favor implied repeals, and never suffer the doctrine to prevail beyond the necessary implication, except in cases where there has been a general revision, or the laws upon a particular subject have been embodied, and reduced to a system. The principal, when correctly understood and properly applied, is never extended beyond the inference necessarily arising from some positive inconsistency in the substance of the law. When any two provisions are repugnant, undoubtedly the former is displaced, and must be overruled to the extent of the inconsistency, but no further. These views are sustained by the highest judicial authority. (*Wood vs. United States*, 16 Pet., 362, 363; *Dwarris*, 675; 1 *Kent's Com.*, 466, note.) A slight examination will be sufficient to enable any one to perceive that there is no inconsistency in the two provisions under consideration, in their application to this case. If Congress had adopted the law of 1844 instead of the law of 1841, the effect would have been the same—to withhold the pension from the applicant for and during the period he shall have received his pay as an officer in the service.

I am therefore of opinion that Lieutenant Brownell is not by law to receive his pension while on duty, and in the receipt of his pay as an officer of the navy. The answer to the second question must also be in the negative. In contemplation of this act he is an officer in the service while in receipt of the pay allowed to his grade, whether on duty or waiting orders.

NATHAN CLIFFORD.

To the SECRETARY OF THE NAVY.

[99.]

"PENSIONS TO OFFICERS RECEIVING REGULAR PAY.—The Attorney General reconsiders his opinion of the 24th ultimo, and advises that no officer can receive at the same time pay as an officer on duty and as a pensioner.

"That officers who may be waiting orders, or on leave or furlough, can receive on account of their pensions only so much as, when added to their pay when on leave, &c., will amount to the pay of their grade when on duty."

ATTORNEY GENERAL'S OFFICE, *June 2, 1847.*

SIR: I have had the honor to receive your communication of the 1st instant, transmitting House document No. 95, containing the opinion given by Mr. Badger while he was Secretary of the Navy, and directing my attention to the rule of construction which he placed upon the act of the 16th of August, 1841. It must be conceded that the opinion of that officer is opposed to the views expressed by me in my answer of the 24th ultimo to the second inquiry in the case of Lieutenant Brownell. Notwithstanding, if the question were now presented to me in the aspect of the first communication from the department, as one of new impression, dependent upon the language of the original act, and entirely disembarassed of any legislative interpretation, I would feel constrained to adhere to the rule which I there laid down, that every officer holding a commission in the navy, whether "on duty" or "waiting orders," while in the receipt of the regular compensation allowed by law to his grade, is in the service of the United States, within the true intent and meaning of the limitation contained in the second section of that act. It must, however, be admitted that the section is inartificially drawn, and not free from ambiguity. On the contrary, it is manifest that the phrase under consideration presented, in the outset, a question of construction involving considerable difficulty and doubt. Every such question may be decided by the department, without the aid of advice. It now appears that Mr. Badger gave his views upon the point within four days after the passage of the law, and that his opinion was published in the *National Intelligencer*, October 7, 1841, and subsequently by the order of the House of Representatives. The rule thus established, it seems, has received the sanction of the department to the present time. In the meanwhile, the substance of this provision has been re-enacted by Congress in the act of the 30th of April, 1844, preserving the identical expression, without any alteration to affect the present question, and is again re-affirmed in the special case of Mr. Brownell.

No one, therefore, can fail to perceive that the opinion of Mr. Badger is entitled to very great weight, even beyond the intrinsic merit of the reasoning upon which it is based. The following is an extract from that opinion:

"The phrase 'in service' seems to have been used instead of, and as equivalent to, 'on duty,' for, in any other sense, the whole section becomes unmeaning, as every officer, while he continues to belong to the navy, is in the service, though he may not be on duty. Giving this sense to the phrase, I am of opinion—

"First, that no officer can receive at the same time pay as an officer on duty and as a pensioner; and,

"Secondly, that officers who may be 'waiting orders,' or 'on leave,' or 'furlough,' can receive only so much on account of their pensions as, added to their pay when so 'on leave,' &c., will amount to the pay of their grade when 'on duty.'

That opinion was given on the 20th of August, 1841, and has

constituted one of the general regulations of the Pension Office ever since. The intention of Congress should govern the case. It therefore becomes important to ascertain in what sense the language "in service" was employed or recognised in the subsequent acts. The act granting the pension was passed February 18, 1847. It contains no language to overrule the long established practice of the department, while it expressly adopts and recognises the law upon which it is founded. Whatever doubt, therefore, may exist in my mind as to the soundness of the rule at the time of its promulgation, if it had been originally established by a judicial determination, I should hold that Congress had ratified the interpretation by subsequently re-enacting the phrase upon which it had been made. No rule of construction is better established or more frequently applied. It is thus stated in Bacon's Abridgment: "Words and phrases, the meaning of which in a statute has been ascertained, when used in a subsequent statute are to be understood in the same sense." Few exceptions exist to this rule when the words are applied to the same subject-matter. (7 Bacon, stat. I, 451.)

I deem it unnecessary to refer to other authorities which might be cited in support to the position. It will not do, however, to admit that the decision of an executive department can have the same force and effect as a judicial determination. But where there has been an uninterrupted usage of several years, as in this case, founded upon an official opinion, and coupled with a strong implication of legislative sanction, it might be unsafe to overrule the practice without the sanction of Congress.

Under all the circumstances, as they are now disclosed, I see no occasion to recommend any change in the practice of the department. It is better to follow the rule established by Mr. Badger, unless Congress shall see fit to interfere.

JOHN APPLETON, Esq.,

NATHAN CLIFFORD.

Acting Secretary of the Navy.

[100.]

"PENSIONS OF WIDOWS OF NAVY OFFICERS AND SEAMEN.—The acts of Congress granting pensions to widows of officers, seamen, and marines, who have died whilst in the service, or from disease contracted or injuries received whilst in the line of their duty, do not include cases of widows of engineers in the navy appointed pursuant to the act of 1842.

"There being no law authorizing the allowance of pensions to such widows, it follows that there is none prescribing the rate at which they shall be paid.

"Pensions to widows of officers, seamen, and marines, when allowable, commence from the date of the passage of the act (1834) in cases where the death of the husband occurred prior to that time, and from the death of the husband in all other cases."

ATTORNEY GENERAL'S OFFICE, *October 14, 1847.*

SIR: I have examined the papers in the case of Mrs. Sarah Heberd, and submit the following opinion for your consideration:
The applicant in this case claims a pension under the act of

June, 1834, to commence from the date of the act. She is the widow of Andrew Heberd, late a chief engineer, who died on the 4th of August, 1847. The law authorizing the employment and regulating the pay of engineers was passed on the 31st August, 1842. The first section of the act provides "that the Secretary of the Navy shall appoint the requisite number of engineers and assistant engineers, not exceeding one chief engineer, two assistant, two second assistant, and three third assistant engineers, for each steam ship-of-war for the naval service of the United States." By the fourth section the Secretary is directed to appoint "a skillful and scientific engineer-in-chief, who shall receive for his services the sum of three thousand dollars per annum, and shall perform such duties as the Secretary of the Navy shall require of him touching that branch of the service." The seventh section of the naval appropriation act approved March 3, 1845, provides "that, in lieu of the mode heretofore provided by law, the engineer-in-chief and chief engineers of the navy shall be appointed by the President, by and with the advice and consent of the Senate."

It is worthy of special notice, in the outset, that the act to regulate the appointment and pay of engineers, while it prescribes the necessary rules for the distribution of prize-money, is entirely silent in relation to the allowance of pensions. The same remark applies to firemen and coal-heavers authorized to be enlisted by the second section of the same act. The closing sentence of the fifth section, in my opinion, has no reference whatever to pensions. It relates exclusively to the laws, rules, and regulations for the government of the naval service, to which engineers are made subject.

The questions submitted are: 1st. Is an engineer's widow entitled to a pension? 2d. If so, at what rate per month shall she be paid?

The first question depends upon the construction to be given to the act of the 30th June, 1834, and the previous laws upon the same subject. The first section of the act of 1834 provides "that all the provisions and benefits of the act of the twenty-eighth of June, one thousand eight hundred and thirty-two, entitled 'An act further to extend the pension heretofore granted to the widows of persons killed or who died in the naval service,' be continued for another term of five years to all those widows who have heretofore had the benefit of the same; and the same are hereby extended to the widows of officers, seamen, and marines who have died in the naval service since the first day of January, one thousand eight hundred and twenty-four, or who may die in said service by reason of disease contracted, or of casualties by drowning or otherwise, or of injuries received while in the line of their duty; and the pensions of such widows shall commence from the passage of this act."

The effect of that provision was, first, to continue all the provisions and benefits of the act of 1832 for another term of five

years to all those widows who have heretofore had the benefit of the same ; secondly, to extend those provisions and benefits to the widows of officers, seamen, and marines who have died in the naval service since the 1st day of January, 1824 ; and, thirdly, to extend the same provisions and benefits to the widows of officers, seamen, and marines who *may die* in the naval service by reason of disease contracted, or of casualties by drowning or otherwise, or of injuries received while in the line of their duty.

It is insisted that, by a liberal interpretation of the act, Mrs. Heberd's case may be included in the third class. To effect this object, it is contended that the act should be regarded as prospective in a double aspect ; that it applies to offices subsequently created in the naval service, as well as to subsequent appointments to offices previously authorized by law. No doubt the pension, being annexed to the office, inures as fully to the widows of officers subsequently appointed as to those whose husbands were in the service at the date of the act. It embraces not only the widows of those officers, seamen, and marines, who *have* died in the naval service since the first day of January, 1824 ; but the widows of those who *may* die in said service, under the circumstances therein mentioned. It is clear, therefore, that it includes subsequent appointments to offices then recognised by law. Whether it can be extended to other employments to offices then recognised by law. Whether it can be extended to other employments in the naval service, unknown to the law at the passage of the act, must depend in a great degree upon the nature and character of the previous acts, whose provisions and benefits were continued and extended by the act under consideration. The language of the act of 1831 is peculiar, and should be kept distinctly in view. Whatever may be its effect, it is reasonable to presume that it was based upon the offices in the navy as they existed at that time. It must be admitted that it does not, in terms, purport to include those not in existence. The legislation of Congress, in relation to pensions, does not favor that conclusion. It has not been the habit of Congress to legislate upon this subject in advance. The pension acts, which are very numerous, have generally been limited in their operation to short periods, and carefully restricted to cases of urgent demand. The truth of this remark is strikingly exemplified by the act of 1832, to which I now invite your attention. The first section provides that in all cases where provision has been made by law for five years' half-pay to widows and children of officers, seamen, and marines, who were killed in battle, or who died in the naval service of the United States, and in all cases where provision has been made for extending the term of five years, in addition to any term of five years, the said provision shall be, and is hereby, extended for an additional term of five years, so far as respects widows only, to commence at the end of the current or last expired term of five years in each case, respectively. All will admit, I presume, that the provisions of these two acts must be considered together, in

order to collect the true meaning of the act of 1834. It will be perceived that pensions under the law of 1832 were strictly limited to cases where provision had been previously made, or the term extended, for the five years' half-pay of widows. The act of 1834, in adopting that act as its basis, adopts the same limitations which clearly restrict its operation to the offices in existence at the time of its passage. No one will pretend that any provision was ever made for the widows of engineers prior to that time.

The phrase "in all cases where provision has been made" is twice repeated in the law of 1832, and cannot be regarded as insignificant or without meaning; and unless it be so, it is impossible, it seems to me, to maintain the construction assumed by the claimant. The prospective words in the act of 1834 are fully satisfied without extending their application to offices subsequently created. The words "may die" unquestionably refer to time to come; but they have reference in this case to the death of the husband, and not to the office which he filled. In other words, widows whose husbands may die after the passage of the act of 1834 are entitled to a pension, whether the husband was appointed before or after that time, provided he filled an office in the navy which was in existence at the date of the act. In other cases, pensions cannot be allowed, unless they are authorized by the act creating the office. The contrary rule would produce this absurdity—that, whenever a new office is created in the navy, silence on the part of Congress would be equivalent to the granting of a pension. No office could be created without this result, unless Congress saw fit to negative the inference by express enactment. In my judgment, no such interpretation of the act of 1834 should ever receive the sanction of the department. These views will be much strengthened by reference to the second section of the act of the 24th August, 1842, which provides that all pensions to officers and seamen in the naval service shall be regulated according to the pay of the navy as it existed on the first day of January, one thousand eight hundred and thirty-five. At that time, there was no corps of engineers attached to the navy; and of course the pension in this case, if one were allowed, could not be adjusted in accordance with the requirements of that act. There being no other law upon the subject, the department is left without any guide. It cannot be admitted that Congress has authorized a pension without presenting some mode to ascertain the amount. The rule contended for by the claimant (half the present pay) might be a very good one, if it had any legal sanction; but, unfortunately for the argument, it reposes upon no authority of law. The conclusion, it seems to me, is irresistible, that no pension can be allowed, there being no law prescribing at what rate such pensions shall be paid. Probably, at the suggestion of the department, Congress will at once correct the omission.

The argument for the claimant suggests the case of passed midshipmen as furnishing a precedent in favor of this claim.

Not so. It appears from the Naval Register that the grade of passed midshipmen was recognised as early as the year 1820. No doubt it was instituted in pursuance of the authority reposed in the President to fix the pay of petty officers, midshipmen, seamen, ordinary seamen, and marines. This authority was first conferred by the seventh section of the act to provide a naval armament, approved on the 27th of March, 1794, and was embraced by subsequent provisions, till the passage of the pay law of 1835. On the 25th of June, 1827, the following general order was approved by the President: "Passed midshipmen will receive warrants as such, will take rank of all other midshipmen, and will receive the pay of twenty-five dollars per month and two rations per day." This regulation, certainly made in pursuance of law, so far as regards pay, remained unchanged on the first day of January, 1835, and continues to this time as the rule of the department in relation to the allowance of pensions to the widows of passed midshipmen under the act of 1834. Their pensions are paid at the rate of twelve dollars and fifty cents per month.

After a careful investigation, I am of the opinion that none of the cases cited in the argument will justify the present claim. Assistant surgeons, mentioned in existing laws, are the same as surgeons' mates in the previous acts.

The same remark applies to commanders and masters, whose titles were changed by the act of the 3d March, 1837. It is very clear that this act furnishes no ground of argument in favor of the present claim. It provides that "such change of title shall not affect the rank, pay, or privileges of any master commandant or sailing-master now in the service."

I am of opinion, therefore, that the existing laws do not authorize the allowance of a pension to the widow of an engineer in the navy. Such being my opinion, it follows, of course, in my view of the case, that there is no law prescribing at what rate such pensions shall be paid.

In answer to the further inquiry of the commissioner, I have to remark that the practice of the department in relation to the commencement of pensions is unquestionably correct. Where the death of the husband occurred prior to the passage of the act of 1834, the pension should commence from the date of the act. In all other cases, it should commence from the time of the husband's death. Otherwise a widow might be entitled to receive a pension retroactively during the whole period her husband was in office. In some other cases, probably, as in this case, if allowed from the date of the act, the pension would commence from a period before the husband entered the service; and when a few more years have elapsed, the rule, if followed, would allow a pension to a widow to commence before her husband was born. The rule adopted by the department should be adhered to.

To the SECRETARY OF WAR.

NATHAN CLIFFORD.

[101.]

"CONCERNING BOUNTY LANDS AND TREASURY SCRIP TO SOLDIERS.—Discharged soldiers who have once elected to take treasury scrip instead of bounty lands, and have obtained the requisite certificate from the Commissioner of Pensions, cannot afterwards be permitted to surrender such scrip and obtain a warrant for lands instead.

"The act of 11th February, 1847, gives to the soldier but one election; and when that is made known, it becomes the duty of the department to conform to it by issuing the evidence of the claim, which completes the proceeding."

ATTORNEY GENERAL'S OFFICE, *October 30, 1847.*

SIR: The papers in the case of David Stutsman, which you referred to me on the 23d instant, present but a single question, which is: Can a discharged soldier, who is entitled either to a certificate for bounty land or treasury scrip under the act of the 11th February, 1847, after he has made his election of the one, and it has been issued to him, surrender the same, and take the other? I think not, under the circumstances of this case.

It appears that the scrip was regularly issued to Stutsman on the 25th September, 1847, in pursuance of an application in writing previously made and signed by the party and subscribing witness. The evidence that he has exercised the "option" secured to him by the second proviso in the ninth section of the act aforesaid, is full and uncontradicted. This being so, and the Commissioner of Pensions having certified that there was no error in the issuance of the scrip, the law is fully executed, and Stutsman must abide by his own decision in the premises. By that proviso the party has but one election; and when that is made known, it becomes the duty of the department to conform to it by issuing the proper evidence of the claim, which completes the proceedings.

NATHAN CLIFFORD.

To the SECRETARY OF THE TREASURY.

[102.]

"LOCATION OF BOUNTY LANDS.—The act of 11th February, 1847, granting bounty lands to non-commissioned officers and soldiers serving in the war with Mexico, does not authorize locations of land warrants upon lands the price of which is fixed at two dollars per acre, by the act of 3d March, 1846.

"The provision allowing bounty lands to the soldiers was intended to operate on the public lands which are subject to sale at the minimum price."

ATTORNEY GENERAL'S OFFICE, *January 18, 1848.*

SIR: I have had the honor to receive the letter of the Hon. Mr. Cathcart, addressed to the Commissioner of the General Land Office, relating to the construction of the 9th section of the act of Congress of the 11th February, 1847, making provision for bounty land in favor of the non-commissioned officers and soldiers serving in the present war with Mexico. By this letter it appears that the Commissioner had decided that the locations under the act could not be made upon lands where the minimum price is greater than one dollar and twenty-five cents per acre. It further appears that a number of soldiers from Indiana, living

on the Miami lands in that State, find themselves precluded by that decision from locating their warrants upon their improvements, while others who resided upon other portions of the public domain are allowed that privilege. Mr. Cathcart, therefore, requests a revision of so much of the instructions of the Commissioner as prohibits those soldiers who are entitled to bounty land from locating the same as pre-emptioners upon the Miami lands in Indiana. Upon these facts you refer to me the following question: "I have decided, as stated in my last annual report, that the soldier himself may purchase the lands to which the general law gave him a pre-emption with his warrant; and assuming this construction, the question is respectfully referred to the Attorney General for his opinion, whether this principle would embrace the lands fixed at two dollars an acre by the act of the 3d March, 1846?"

Having examined this question, I have come to the conclusion that it must be answered in the negative. The provision allowing bounty land to the soldiers was intended, in my opinion, to operate on the public lands subject to sale at the minimum price, and not on lands the price of which, under special enactments, had been fixed by Congress at a higher rate. No doubt it was the intention of Congress to distribute justice equally among this class of meritorious public servants, which could not be done if the views of Mr. Cathcart were adopted. By the general pre-emption law of 1841, (*5 Stats. at Large*, 456,) the Miami reservations were expressly exempted from pre-emption rights. The exceptions in that act are, "the lands acquired by either of the two last treaties with the Miami tribe of Indians, in the State of Indiana, or which may be acquired of the Wyandot tribe of Indians, in the State of Ohio, or other Indian reservation to which the title has been or may be extinguished by the United States at any time during the operation of this act." The general law in regard to pre-emption rights is wholly unaffected by the provisions contained in the act of the 3d of March, 1846.

The rights allowed by the latter act depend entirely upon a compliance with the conditions upon which they are conferred. No pre-emption rights can be acquired in these lands under the general law upon that subject, nor under the act of the 3d of March, 1846, at any price less than two dollars per acre. These lands having been withdrawn from the operation of the general law conferring pre-emption rights, I am clearly of opinion that the principle of your decision does not embrace them. The rights secured by the act of the 11th of February, 1847, should be limited to the general class of the public lands which are open to all who are entitled to the bounty provided for in the ninth section.

NATHAN CLIFFORD.

To the SECRETARY OF THE TREASURY.

[103.]

"**BOUNTY LANDS TO SOLDIERS.**—Soldiers who enlisted during the war with Mexico for twelve months, but who, without having been wounded or sick, were honorably discharged by General Taylor, are not entitled to bounty lands under the act of 11th February, 1847."

ATTORNEY GENERAL'S OFFICE, *March 17, 1848.*

SIR: I have considered the question presented in your communication of the 14th December last, and now proceed to state my views upon the point, in compliance with your request.

The single question to which you require a response is, whether a volunteer soldier who was honorably discharged before the expiration of the time for which he had engaged, and before the whole company was discharged, is entitled to the land bounty provided in the ninth section of the act to raise, for a limited time, an additional military force, approved 11th February, 1847. The solution of the question depends upon the construction to be given to the provisions of that law allowing the bounty. The case presented as an example, and the one upon which my opinion is requested, is that of James Coleman, who, it appears, enlisted for twelve months as a volunteer, in June, 1846, and was discharged in October of the same year. The certificate of honorable discharge, was granted to him under the special order of Major General Taylor, No. 156, bearing date 15th October, 1846, and is in the following words: "4th. James Coleman, late sergeant-major of the 2d regiment Indiana volunteers, is hereby honorably discharged from the service."

In the absence of any explanation to the contrary, and of all means of ascertaining the true case of the discharge, I think it is no more than a reasonable inference to conclude that it was granted at the request and for the benefit of the party receiving it. It must be presumed, I think, from the statement of the case, that the claimant voluntarily withdrew from the service before the expiration of the twelve months for which he had enlisted; whether to engage in some other branch of it, under a new contract, or to return to his home, does not appear. It does appear, however, that he surrendered the contract under which he was engaged before the expiration of twelve months, and therefore cannot be entitled to the bounty which is attached to that length of service. The case does not show that he was discharged in consequence of wounds received or sickness incurred in the course of such service, nor is it pretended that such was the fact.

The bounty under the first clause of the section is based upon a prescribed term of service, and cannot be allowed, under existing laws, for any period less than the one mentioned in the act. The claimant must show that he enlisted, and was regularly mustered into the service, and that he continued in the service for twelve months, and received an honorable discharge, before his claim can be admitted under that clause. The service in this case having been for a period less than twelve months, the claim is clearly excluded from this part of the section. The discharge not having been given on account of wounds received or sickness

incurred in the course of such service, it will not be pretended that the case is embraced in either of the clauses applicable to that class of cases. It is clear, therefore, to my mind, that no construction would include this case, short of holding that the right to land bounty is based entirely upon the certificate of honorable discharge, and that the right is perfected whenever the discharge is granted, no matter how short the period of service. This cannot be admitted, unless it appear to have been granted for some of the special causes mentioned in the act. If it be held that the requirement of the law is answered by any period of service less than twelve months, then one day is sufficient, as the period of twelve months is the only one named in the act applicable to this class of cases. In my judgment, such was not the intention of Congress; and I think it would be unsafe so to conclude, without an amendatory act to that effect. If it had been the intention of Congress to allow the bounty in other cases than those enumerated, where a discharge was granted before the expiration of the term of service, it is presumed the law would have so declared; and until that declaration is made by Congress, I think the benefits of the act must be confined within the limits already suggested.

To the SECRETARY OF WAR.

NATHAN CLIFFORD.

[104.]

"PENSIONS OF WIDOWS, &c., OF OFFICERS AND MARINES.—The first section of the act of 11th August, 1848, renewing certain naval pensions, embraces all such widows and children as were receiving pensions under any of the laws of Congress passed prior to the 1st of August, 1841.

"The other class comprises all those widows and children who received pensions at any time within five years prior to the passage of the act.

"The word "special" occurring in said act is construed to mean "particular," and not "private," as it is used in that sense.

"As Congress neglected to provide, in terms, for widows of second lieutenants of marines in the second section of said act, it may be inferred that it intended to refer, in the provision, to lieutenants without any other designation."

ATTORNEY GENERAL'S OFFICE, *September 6, 1848.*

SIR: I think the first section of the act renewing certain naval pensions, &c., passed August 11, 1848, is not to be regarded as embracing only those widows and children to whom pensions had been granted, in single instances, by private acts. Such a restricted construction is obviously opposed to the intention of Congress. The description of the first class is in these words, viz: "all those widows and such child or children as are now receiving a pension under any of the laws of Congress passed prior to the 1st of August, 1841." The words are, "any of the laws," not "*private laws*," as it would have been, if such only were intended. The exception which follows shows the same intention, because the excepted law passed on the 3d March, 1837, was one of the broadest and most general pension laws which had been enacted; and

there was no room for the exception, unless it was included in the general description of the persons entitled to the renewal. This is quite decisive of what was in the mind of the legislature. The description of the other class entitled to the renewal is equally general—"those widows and children who have received pensions at any time within five years prior to the passage of this act." All these persons are, by the express words, within the purview of the act, and are declared to be entitled to a renewal. But then comes the supposed restriction, which by a violent construction would throw out the greater part—almost all who had before been included by a precise and definite description: they "may and shall continue to receive the same amount as they have received under any special act from the time such special act expired." The word "special" here does not mean "private," but particular. I think the word is used in that sense. It comports with the general tenor and language of the whole section. The other sense of which the word in another connexion would be susceptible, would, if applied to it here, overturn and controul all the other language used in the direct description of the persons intended, explicit and unequivocal as it is, contrary to the apparent intention of Congress.

As to the question under the 2d section, there might be more room for doubt. In enacting that "the pension of a first assistant engineer" shall be "the same as that of a lieutenant of marines, and the pension of the widow of a first assistant engineer the same as that of the widow of a lieutenant of marines." Congress seems to have lost sight of the fact that there was a second lieutenant of marines, and might therefore be supposed to have referred to the first lieutenant only. But, in common parlance, "the lieutenant," without further designation, whether of marines or of infantry would universally be understood to mean the senior lieutenant and not the second lieutenant; and this familiar and reasonable rule—the meaning of language in common use, which is always a most sure guide to the true legislative intent—may be applied in this instance, where the law seems to have been enacted without a minute or particular attention to the previously existing law.

To the SECRETARY OF THE NAVY.

ISAAC TOUCEY.

[105.]

"SISTERS OF THE HALF-BLOOD ENTITLED TO BOUNTY LANDS.—Surviving sisters of the half-blood of deceased soldiers, who, at their demise, were entitled to bounty lands from the government, are equally entitled with the brothers and sisters of the whole-blood to receive such bounty, or the money in its stead.

"The act makes no distinction between relatives of the whole-blood and those of the half-blood."

ATTORNEY GENERAL'S OFFICE, *September 7, 1848.*

SIR: The explanatory act of May 27, 1848, enacts "that the term 'relatives,' as used in the ninth section of the act entitled

'An act to raise, for a limited time, an additional military force, and for other purposes,' approved 11th February, 1847, shall be considered as extending to the brothers and sisters of those persons whose services, under that act, may have entitled them to the land therein provided. The order or priority of right, however, shall remain as declared in that act; and those failing, the right shall accrue, fourthly, to the brother or sister, or in equal proportions to the brothers and sisters of the deceased, as the case may be. Thomas J. Luxen, entitled to bounty land, died, leaving a brother of the whole-blood and a sister of the half-blood, they being children of the same mother. The question is, whether the children of the same mother, but not of the same father, are brothers and sisters within the meaning of this act of Congress? There is no question here of the descent of ancestral estate. The land or the money in its stead, is not given to the "heir," which might have created greater doubt; but it is given to the brothers and sisters; and if the half sister was the sister of the deceased, she is within the description of the persons entitled to take. It cannot be said that she is not a sister; and as the act makes no distinction between the whole-blood and half-blood, she cannot be excluded upon any ground contained in the law itself, and from the nature of the case, the policy of no one or more States can apply here; and there is no general principle of law or policy that can be permitted to vary or control the construction of this section of the act, but the plain import of the words must prevail. I think, therefore, that the sister of the half-blood is entitled to a share.

To the SECRETARY OF WAR.

ISAAC TOUCEY.

[106.]

"PENSIONS OF DISABLED OFFICERS, SEAMEN AND MARINES.—The act of July 10, 1832, transferred to the Secretary of the Navy all the powers theretofore possessed by the commissioners of the navy pension fund to make regulations for the admission of persons upon the roll of navy pensioners, and for the payment of such pensions.

"It therefore rests in the sound discretion of the Secretary of the Navy to decide, according to the regulations in force, when the pension of an applicant shall commence.

"If it has been the settled rule of the department that pensions shall commence at the time of completing the proofs, it will be very difficult now to depart from it."

ATTORNEY GENERAL'S OFFICE, *September 27, 1848.*

SIR: The 8th section of the act of April 23, 1800, entitles every officer, seaman, or marine, disabled in the line of his duty, to receive for life, or during his disability, a pension from the United States, according to the nature and degree of his disability, not exceeding one-half of his monthly pay. By the act of March 26, 1804, the commissioners of the navy pension fund were authorized and directed to make such regulations as might to them appear expedient for the admission of persons on the roll of navy pensioners, and for the payment of pensions; and by the act of July 10, 1832, all the powers and duties of the commissioners were transferred to the Secretary of the Navy.

An opinion was given on the 21st of December, 1832, by the present Chief Justice of the United States, as Attorney General, that the power conferred upon the commissioners by the act of 1804, authorized them "to fix the period at which the pensions should commence, and also the principles by which the amount was to be graduated;" that "they might have declared that the pension should begin from the time of the disability, or they might have determined that it should commence at the date of the application and the exhibition of proof, if they deemed the latter period more consonant to the spirit of the law;" and "that in the absence of any regulation on the subject, it was their province to exercise a sound discretion in this respect in every case as it came before them."

This opinion, in which I fully concur, furnishes an answer to the inquiry when the pension of James Cochran shall commence.

It rests with the Secretary of the Navy to decide according to the regulations now in force; or if there be no regulation, then to exercise a sound discretion—not an arbitrary discretion, but according to the settled course of the department. The Secretary has undoubtedly the power to correct any erroneous course heretofore pursued by a new regulation, or by setting a new precedent to be the guide in future, or to introduce a more perfect rule, or a class of exceptions, for sufficient reasons, to any general rule. This would be but the legitimate exercise of the power to make such regulations as might to him appear expedient for the admission of persons on the roll of navy pensioners, but it would be directly repugnant to the character of the power conferred, to suppose that a power to make rules was a power to dispense with them altogether, and to substitute in their place caprice or arbitrary discretion.

And if it has been the settled rule of the department to decide that the pension shall commence at the time of completing the proofs, in conformity with the rules prescribed by Congress in the case of those pensioners who were disabled by known wounds received in the revolutionary war, it would certainly be very difficult for the Secretary, in the exercise of a sound discretion, at this late day to depart from it.

• To the SECRETARY OF THE NAVY.

ISAAC TOUCEY.

[107.]

"PAYMASTERS MAY RECEIVE PAY AND PENSIONS.—An officer who, having lost a limb in the war of 1812, was mustered out of the service upon a captain's pension, and afterwards appointed battalion paymaster, may be regarded as having been appointed to the civil branch of the service within the meaning of the act of 30th April, 1844, and entitled to receive both his pension and his pay.

"The phrase "civil branch of the service," employed in the act of 1844, commented on and explained."

ATTORNEY GENERAL'S OFFICE, *November 1, 1848.*

SIR: I have the honor to reply to the inquiry, which you have

submitted to me at the request of the Second Comptroller, whether David S. Townsend, a paymaster in the army, and an invalid pensioner, is entitled both to his pay and his pension under a just construction of the act of April 30, 1844?

In the war of 1812 Major Townsend lost a leg in battle. Shortly after he was mustered out of the service upon a captain's pension. He was, at the time, captain of the ninth regiment of infantry, major by brevet, and held the appointment of assistant adjutant general in the army. On the 29th of April, 1816, he was appointed battalion paymaster; and is now a paymaster under the act of March 2, 1821.

The act of April 30, 1844, (5 *Stats. at Large*, 656,) provides "that no person in the army, navy, or marine corps, shall be allowed to draw both a pension as an invalid, and the pay of his rank or station in the service, unless the alleged disability for which the pension was granted be such as to have occasioned his employment in a lower grade, or in some civil branch of the service."

It cannot, I think, be said, within the true meaning of this law, that the disability of Major Townsend has occasioned his employment in a lower grade. If he had been put upon his brevet rank at the time when he left the service, he is not in a lower grade, as he is entitled to the rank and pay of a major. Before the act of Congress conferring or establishing that rank, he had, under the army regulations, that assimilated rank. And if, at the time, his disability did not occasion his employment in a lower grade, it would hardly be admissible to depart from the actual fact, and to enter the field of conjecture or speculation, as to any grade which he might have reached but for that disability. His title to receive his pension, in addition to his pay, must, therefore, depend upon the question whether his employment is in "some civil branch of the service." The service here spoken of is not "*civil service*" of the government, in its general sense. It is restricted to the military and naval service. The proviso applies only to a "person in the army, navy, or marine corps." His pay, referred to, is "the pay of his rank or station in the service." When, therefore, the exception is introduced of "his employment * * in some *civil* branch of the service," it necessarily imports the same service. What, then, is the civil branch of the military service? If there be any such branch as that expressly alluded to, and excepted by Congress, it must comprehend an office, the duties of which are, in their character, altogether civil. Such is the office of paymaster, whose employment is to pay money and keep accounts—whose duty is to deal with pecuniary matters, and whose qualifications are not necessarily military, but civil only. Such a construction, by every rule of law, must be put upon this act, as to give some meaning to these words, and to carry the intention of Congress into effect. And when it is considered that the pension, in this class of cases, is given for a disability incurred in the service of the country, and had been already granted

to the pensioner before the act was passed, it would be necessary that a clear intent to take it away should appear before that result can be arrived at by those who are charged with the execution of the law.

I think, therefore, on this ground, that Major Townsend's pension must be continued to him.

To the SECRETARY OF WAR.

ISAAC TOUCEY.

[108.]

"PENSIONS OF SERGEANTS IN THE MARINE CORPS.—The joint resolution of Congress, passed 10th August, 1848, placed the officers of the marine corps, who served with the army in the war with Mexico, on an equal footing with the officers of the army with whom they served.

"The phrase 'other remuneration,' employed in said resolution, must be understood to refer to pensions.

"It was the intention of Congress to remove any distinction in respect to pensions between men in the same relative position, who have been disabled by the loss of their limbs whilst fighting side by side in the same service."

ATTORNEY GENERAL'S OFFICE, Nov. 21, 1848.

SIR: I have the honor to reply to your letter of the 10th instant, requesting my opinion in the case of James Orr, a sergeant in the marine corps, who was severely wounded at the storming of Chapultepec, in September, 1847. The question is, whether he is entitled to a pension as a sergeant of marines, under the act of 23d April, 1860, or as a sergeant in the army, under the act of the 26th of April, 1816. In the former case, his pension would be six dollars and fifty cents per month; in the latter, eight dollars per month.

The whole question turns upon the construction of the joint resolution of August 10, 1848, which places those of the marine corps who served with the army in the war with Mexico, "in all respects, as to bounty land and other remuneration in addition to ordinary pay, on a footing with the officers, non-commissioned officers, privates, and musicians of the army."

What is comprehended within the words "other remuneration?" It does not mean ordinary pay, because it is in addition to ordinary pay. It does not mean clothing or rations, for they were the same in both branches of the service. It does not mean "bounty land," for that is expressly named, and then these words are added, meaning remuneration other than bounty land, but, according to the legal rule of construction, of a like nature with it. Bounty land is not strictly remuneration, like pay or emoluments, but a benefit secured by law for the advancement of the service. A pension to a soldier disabled by wounds in battle is a similar benefit, secured by law for a like object; and it is looked to by the soldier, when he engages, as being, in a more broad and general sense, a part of the remuneration which his country promises to secure to him for his services in her cause.

The act of 1816 declares that non-commissioned officers shall

be "entitled" to receive, for disabilities of the highest degree, "eight dollars per month"—that is, very clearly, as a remuneration for such disabilities. This would seem to have been the comprehensive meaning attached to the words "other remuneration," when Congress made use of them. If they have not this meaning, then they have no meaning at all; for there is no other subject-matter to which they can apply, and they must be expunged, as having been used by the Legislature without an object. Besides all this, it was the general intention of Congress to place these classes in all respects upon the same footing; and there is neither reason nor justice, after such a Legislative declaration, in making an invidious distinction between two men in the same relative position, who have been disabled, by the loss of their limbs, fighting side by side in the same service. Such was not the intention of Congress.

To the SECRETARY OF THE NAVY.

ISAAC TOUCEY.

[109.]

"PAYMENT OF ARREARS OF PENSIONS TO ADMINISTRATORS.—Where the arrears of a pension due at the decease of the widow of a revolutionary officer were paid to the administrator appointed in one county of the State of Indiana, and an administrator subsequently appointed in another county preferred a claim for the same amount—DECIDED, that the Secretary of War who made the payment executed all the power conferred by Congress in respect to it.

"This decision refers to the case of the United States *vs.* The Bank of the Metropolis (15 *Peters* 400) for the doctrine applicable to the power of the Executive officers to review and revise the action of their predecessors."

ATTORNEY GENERAL'S OFFICE, *January 15, 1849.*

SIR: In the case of the children of Sarah Easton, deceased, who was entitled to a pension as the widow of a revolutionary officer, a question arises *in limine*, which, I think, disposes of the subject, so far as the executive departments have any power to act upon it.

It appears that her grandson, W. H. English, in the year 1845, took out letters of administration on her estate in Clark county, in the State of Indiana, presented them at the department, and the amount due to her, exceeding the sum of \$2,000, was thereupon paid over to him as her administrator.

Afterwards, in the year 1848, Mr. J. P. Cooper took out letters of administration on her estate in Jefferson county, in the same State, and now claims payment of the money to him as her true administrator.

The question presented involves the validity of the first letters of administration. This precise question was before the Secretary of War in 1845, and was then decided by him; and the money appropriated by Congress for the payment of this claim was in pursuance of that decision, drawn from the treasury and disbursed for that object. The power was conferred on him by Congress to consider and to decide that question; and his decision, thus made in the performance of his official duty, has been executed by the payment of the money.

It is a sufficient answer to this application, that no money can be drawn from the treasury but in pursuance of appropriations made by law, and that there is now no money in the treasury thus appropriated for the payment of this claim. The appropriation is exhausted, and requires the renewed action of Congress.

In the case of the *United States vs. The Bank of the Metropolis*, (15 *Peters*, 400,) the court was requested to say "that if the credits given by Mr. Barry were for extra allowances which the said Postmaster General was not legally authorized to allow, then it was the duty of the present Postmaster General to disallow such items of credit." But the Supreme Court sustained the refusal to give that instruction, and held that the power of the successor was no greater than that of his predecessor, and "did not extend to the recall of credits or allowances made by Mr. Barry, if he acted within the scope of official authority given by law to the head of a department;" and that the "right in an incumbent of reviewing a predecessor's decisions extends to mistakes in matters of fact arising from errors in calculation, and to cases of rejected claims in which material testimony is afterwards discovered and produced." The present case does not fall within either of the exceptions, and the former decision was made by the present incumbent; but the power granted was legitimately exercised, the act done, and the treasury exhausted; and if the authority remained to be executed over again as often as new letters of administration might appear, still there would be nothing in the treasury for it to act upon.

To the SECRETARY OF WAR.

ISAAC TOUCEY.

[110.]

"PENSIONS TO DISABLED OFFICERS, SEAMEN, AND MARINES.—The rule of the Pension Office that an application for a pension cannot be entertained after the lapse of twenty-five years from the time when the disability was incurred, is unauthorized by law, and therefore invalid.

"The power conferred upon the Secretary of the Navy to establish rules and regulations for the examination and adjudication of claims for admission upon the roll, does not authorize the enactment of a statute of limitations."

ATTORNEY GENERAL'S OFFICE, *February 16, 1849.*

SIR: I have the honor to reply to your letter requesting my opinion "whether the rule of the Pension Office, that an application for a pension cannot be entertained after the lapse of twenty-five years from the time when the disability was incurred, is authorized by the act of the 26th March, 1804, empowering the commissioners of the navy pension fund to make such regulations as might to them appear expedient for the admission of persons on the roll of navy pensioners."

This is a power to establish rules and regulations to be observed in the examination and adjudication of the legal claims of a class of persons to be admitted on the roll of navy pensioners;

and does not extend to the enactment of a statute of limitations, or of any rule which would preclude any examination, and of course any adjudication. Such a rule would be in derogation of the act of Congress, not in execution of it. This being clearly the character of the rule of the Pension Office referred to, I am of opinion it is invalid.

To the SECRETARY OF THE NAVY.

ISAAC TOUCEY.

[111.]

"PENSIONS OF DISABLED OFFICERS, SEAMEN, AND MARINES.—The commissioners of the navy pension fund were authorized and directed to make such rules and regulations as should appear to them expedient for the admission of persons on the roll of navy pensioners, and for the payment of such pensions; and they having provided that pensions are to commence from the time of completing the proofs, and the same having been continued since their powers were transferred and devolved upon the Secretary of the Navy, the practice should be adhered to.

"It may be doubtful whether the provisions of the 2d section of the act of 4th February, 1822, though general, are not to be confined to cases of claims for revolutionary pensions.

"The claim of James Lewis, however, cannot be allowed."

ATTORNEY GENERAL'S OFFICE, *July 14, 1849.*

SIR: I have thought of the question you have submitted to this office in the case of the pension claim of James Lewis. It is whether the provisions of the 2d section of the act of 4th February, 1822, though general, are not to be confined to cases of claims for revolutionary pensions.

I am by no means certain that such is not its true construction; and if the claim in this instance depended on that point alone, I should hesitate to decide against it. There are objections to it, however, upon other grounds, which, in my opinion, are insuperable. Between the act of 1800 and that of 1806, Congress passed the act of 26th March, 1804, (*2 Statutes at Large*, 293,) entitled "An act in relation to the navy pension fund." The 6th section of that law provides "that the commissioners of the navy pension fund be, and they are hereby, authorized and directed to make such regulations as may to them appear expedient for the admission of persons on the roll of navy pensioners, and for the payment of the pensions." A case similar to the present has been before this office, and the then Attorney General, (Taney,) in deciding it, was of opinion that this section of the act of 1804 gave the commissioners the power to fix, by regulation, the period at which the pensions should commence, and the principle by which the amount within the limit of the act of 1800 was to be graduated. Under the act of 1804, the practice, I understand, was to date the pension from the completion of the proof, and not the beginning of the disability; thus making the rule upon the subject of all pensions the same, by regulation under the provisions of the act of 1804, and by law under the very terms of the act of 10th April, 1806; that is to say, dating them from the proof of title, and not from the happening of the disability. In

the subsequent case of James Cochrane, my immediate predecessor, Mr. Toucey, concurred fully in the view taken by Mr. Taney, and said that it rested with the Secretary of the Navy to decide according to the regulations now in force; or, if no regulations are, then to exercise a sound discretion—not an arbitrary one, but a discretion according to the settled course of the department. He also says: “If it has been the settled rule of the department to decide that the pension shall commence at the time of completing the proofs, in conformity with the rule prescribed by Congress in the case of those pensioners who were disabled by known wounds received in the revolutionary war, it would certainly be very difficult for the Secretary, in the exercise of a sound discretion, at this late day to dissent from it.

I think both of these opinions are sound; and, although it may be doubtful whether the section you refer to in the act of 1822, though general in its terms, does apply to other than revolutionary pensions, I think the claim in the present case cannot be allowed. It is ever unsafe to unsettle a fixed and established practice in matters of this kind. It might subject the government to unlimited demands, and at a period when the means of detecting the injustice are lost.

REVERDY JOHNSON.

TO THE SECRETARY OF THE INTERIOR.

[112.]

“CLAIM FOR BOUNTY LANDS UNDER ACT OF 1847.—A soldier who enlisted into the army in 1846, for the term of five years, and served until April, 1849, when, in consequence of the reduction of the army after the termination of the war with Mexico, he was honorably discharged, against his own wishes, is entitled to the bounty land provided by the 9th section of the act of 4th February, 1847.

“The 9th section of that act embraces those of the regular army enlisted for twelve months or for a longer period; volunteers regularly mustered into a volunteer company, who served during the war, and have been honorably discharged; those killed, or who died of wounds received or by sickness incurred in the course of their service; and those who were discharged before the expiration of their term of service, in consequence of wounds received or sickness incurred in the course of their service.”

ATTORNEY GENERAL'S OFFICE, *July 27, 1849.*

SIR: The claim of John Hasson, late a sergeant in the general recruiting service, to the benefit of the bounty land provided by the 9th section of the act of the 4th February, 1847. (*Session acts*, p. 14,) submitted by you to this office, I have carefully considered.

It rests altogether upon what is the proper construction of that section. The facts are these: The claimant was enlisted on the 29th January, 1846, and on the 14th April, 1849, *honorably* discharged. The discharge was made against his wish, and in consequence of the reduction of the army after the termination of the Mexican war. The term of his enlistment was five years.

The Pension Office thinks the claim unfounded, and has so decided. Its interpretation of the section is, that it embraces only those who served out their full term, or were prevented in consequence of wounds, disabilities, or death.

I construe it differently. In my opinion, it embraces three classes:

1st. Those of the regular army enlisted for twelve months or for a longer period; volunteers regularly mustered into a volunteer company, "who have served, or may serve, *during*" the *war with Mexico*, and are then, at the end of the *war*, honorably discharged.

2d. Those killed, or dying of wounds received or sickness incurred, "in the course of *such service*."

3d. Those who are discharged before the expiration of their term of service, "in consequence of wounds received or sickness incurred in the course of *such service*."

The first class need only to serve *during the war*, and to be honorably discharged at its termination, to entitle them to bounty. It is not necessary to show service in the army for the whole period of the enlistment. The second: death from wounds or sickness received or incurred *during service in the war*, and not *during* the term of enlistment, when that extends beyond the close of the war. Third: those who, by reason of wounds or sickness occurring *in the war*, are discharge *before the close of the war*.

The view taken by the Pension Office is, that the express provision for this latter class shows that the terms "and who shall receive an honorable discharge," applicable to the first class, were not meant to embrace any other such discharge than one granted *after* the full period of enlistment had been served out.

This construction evidently renders it necessary to add to that part of the section these words: "at the expiration of his term of service." The terms actually used neither imply nor justify such an addition. They are, in themselves, perfectly clear. A non-commissioned officer, &c., enlisted in the regular army, or such a volunteer as is described mustering in a volunteer company, and serving *during the war*, not during the *period of enlistment*, and then honorably discharged, is to receive the bounty. The words necessary to be superadded by the construction in question manifestly changes the entire sence of the language used: nor is such an interpretation called for by the object of the provision. That evidently was to hold out an incentive to faithful and gallant service *during the war*. It did not look to service *during a state of peace*. The increased peril of a war service, and the increased occasion it furnished for skill and daring, gave rise to the bounty. This being so, it would seem strange that the soldier who so served during the very exigency, and that ceasing, was honorably discharged, should not be entitled to the very benefit designed to meet it. The express provision for the third class, upon which the other view rests, is susceptible, I think, of a meaning perfectly consistent with the one I give to the provision for the first class. It is this: That it includes those who are discharged *before the end of the war*, and the termination of the enlistment, in consequence of wounds or sickness happening during the war.

In my opinion, the words "in course of such service," applying

to the second and third classes, are equivalent with the words applicable to the first class, "who has *served*, or may *serve*, during the *present war*." The service meant is not a service commensurate with the term of enlistment, but with the continuance of the war, wholly irrespective of the term of enlistment. The words relied upon by the Pension Office for its decision, in my opinion, therefore, mean this: A discharge during the war, prior to the expiration of enlistment, in consequence of wounds or sickness occurring during the war. So far from qualifying, by limiting, the antecedent provision for the first class, they embrace another which would not have been otherwise provided for. Under the first, an honorable discharge at the *end of the war* is required. Under this, a discharge during the war, and before its end, in consequence of wounds, &c., is sufficient.

But there is another ground in my judgment sufficient to sustain the claim. The objection is not that the claimant did not *serve* during the war, and was not afterwards honorable discharged, but that he did not serve out his term of enlistment. The enlistment being on the 29th of January, 1846, was, under the law as it then stood, for a term of five years. But the act of the 13th of May, 1846, (*Session acts*, p. 16,) authorized the President to increase the army by increasing each company to one hundred privates, and the enlistments to be made for the purpose are to "be for the term of five years and no longer, *unless sooner disbanded by the President*." The increase was to be made when the President thought "the exigencies of the public service" required it, and he was to reduce it when such exigencies ceased.

Under this power, when the war ended, the reduction was made; and in making it, as he clearly had the right to do, he caused to be discharged some of those who were enlisted before May, 1846, as well as some who were afterwards enlisted. The claimant was among the former. The power to reduce was thought to be (and I think properly) independent of the character of the enlistment. The effect clearly was, to place those enlisted prior to the act of 1846 and those enlisted under that act upon the same footing as those enlisted after, as far as a discharge before the expiration of the term of enlistment was concerned. The consequence of this clearly was, to make the enlistment of both classes to be for five years, "unless sooner disbanded by the President." The latter qualification was, by the act of 1846, made as much a part of the antecedent enlistments as of those it authorized. This being the case, it is, in my opinion, perfectly clear that the present claimant, having been discharged under the reduction provided for by that act, and such discharge having been an honorable one, is entitled to the benefit of the act of 1847, even conceding the view of the Pension Office to be right, that the terms "and who shall receive an honorable discharge," found in the first part of the 9th section of the act, mean only a discharge at the end of the enlisted term, if he was so discharged. His term of service after the act of 1846 was five years, unless

sooner disbanded by the President. If so' disbanded, that was the expiration of his term of enlistment. But, in addition to all this, unless the words of the law admitted of no other meaning, would it be just to Congress to give them that interpretation? The nation was then at war, and the purpose was, because of the war, to encourage enlistments and good conduct in the army. This is done by the incentive of the promised bounty. The soldier is told: enlist, serve during the war, and be honorably discharged, and the bounty is yours. The pledge of the public faith is apparently complete. Now, if the construction of the Pension Office is the sound one, is it not clear that this pledge is but a false and deceitful instead of a fair one? Service, says the office, during the entire term of enlistment, is necessary, unless a prior discharge is caused by wounds or sickness. Before the term expires, then, (which may well happen, and in the present instance did happen,) Congress may direct or authorize the disbanding the army. Is it possible, in that event, the soldier having fully complied up to his discharge with his part of the engagement, and been prevented against his will and by the act of the government from complying throughout, that he is not to be entitled to demand compliance on the part of the government? Every principle of justice and fair dealing is on the side of such a demand, and it cannot be that Congress designed to deny it. Upon the whole, then, I am of opinion that the claim of Hasson should be allowed.

REVERDY JOHNSON.

To the SECRETARY OF THE INTERIOR.

[113.]

"MARINE CORPS SERVING IN THE WAR WITH MEXICO ENTITLED TO BOUNTY LAND.—The entire portion of the marine corps, whether they served on ship-board or land, on the Mexican coast or in the interior, in the Mexican war, are to be considered, within the true meaning of the resolution of the 10th of August, 1848, as having 'served with the army in the war with Mexico,' and are entitled to the bounty land and other remuneration which that resolution provides.

"But in awarding it to such of the corps as may have received prize-money, such money should be carried, in the account, to the credit of the government; or, when not received, should be released."

ATTORNEY GENERAL'S OFFICE, *September 17, 1849.*

SIR: I have considered the question submitted by you to this office, as to what is the proper construction of the joint resolution of the 10th of August, 1848, (*Session acts*, p. 225.) making certain provision for the officers, &c., of the marine corps "who have served with the army in the war with Mexico."

Two battalions of the corps, under the separate commands of Lieutenant Colonel Watson and Major Harris, were, as you inform me, "detached from the navy, and transferred *pro tempore* to the army," to serve with it, under Major General Scott's command, in the war. That these are entitled to the benefit of

the resolution, is considered by you, and properly, "as clear and indisputable;" but the doubt is, whether any other part of the corps is entitled? Upon this point, my opinion is decisive. With all proper deference to the judgment of my predecessor in the department, who, as I understand, gave the resolution that limited construction upon which as yet it has been executed, my opinion is that such construction is neither consistent with its spirit nor language. The interpretation I give to it is, that all the officers, non-commissioned officers, privates, and musicians of the corps who belonged to the vessels of the United States despatched to the Mexican coast, to aid in subduing the cities and ports of the enemy, and conquering the country, and who were there for the purpose, are equally embraced by the resolution with the particular detachments under Lieutenant Colonel Watson and Major Harris.

All that is necessary to bring any portion of the corps within the scope of the provision is, that they should have "served with the army in the war with Mexico." Whether such service was on the land, or on the water, if it was rendered in connexion or association with the army, and to effect a common end—victory over, and conquest of, the enemy—it was serving "with the army in the war." The resolution prescribes no particular theatre of service. It is couched in general terms. Neither land nor ocean is, in any way, in words referred to. It is service generally, anywhere, and in any mode, during the war, in union with the army, that is intended to be provided for. Looking, therefore, only to the language of the resolution, as far as I have referred to it, I am clear that the limited view heretofore taken is erroneous. But if we consider the nature of the war, and the terms of the proviso to the resolution, the error is, I think, yet more apparent.

First. The nature of the war.

It had been one of invasion. The reduction of towns and cities upon the coast, and penetrating, possessing, and conquering the interior of the enemy's country, had been part of the struggle. Mere naval conflicts had not, from the very character of the contest, occurred, nor could have been anticipated. That part of the public force—the naval marine—had been put in requisition principally to assist in the objects of the invasion. Its operations were, in all cases, auxiliary to the operations of the army; in other words, the service it rendered was service "with the army in the war."

It did nothing upon its own peculiar element. No part of its action had been entirely independent of the army. All the aid it had afforded was in connexion with the army, and the better to enable the army to make the invasion effectual. This, as far as the particular corps referred to in the resolution are concerned, was accomplished by special detachments—such as Lieutenant Colonel Watson's and Major Harris's; by service on land on the part of others—sometimes for a longer, sometimes for a shorter period; and by all on board the vessels of the United States;

liable at all times to be sent ashore, and always serving (though on board, for the reasons heretofore suggested) in aid of, and with the army in the war.

The very character of the war, then, in my opinion, demonstrates that the whole of the corps engaged in it, whether on the coast or on the land, "served with the army in the war." But if this is not already obvious, the proviso to the resolution makes it so. That says that "this remuneration (that given by the resolution) shall be *in lieu of prize-money and all other extra allowances.*" Whence the necessity of this qualification, if the construction I am resisting is a sound one—that Watson's and Harris's commands alone were included in the resolution? Their particular service having been altogether on the land, and under the actual command of Major General Scott—they forming, in fact, no part of the naval marine during the war—could not have had title to prize-money. That could only have been earned by such portion of the corps as, during the war, were on board, or belonged to, the capturing vessels of the United States.

It would, therefore, have been not only idle, but absurd, to have substituted, as to them, the compensation given by the resolution for that of prize-money. They had no title to the latter; and, from the very nature of their service during the war, could not have acquired a title.

But the resolution assumes that there may be prize-money due the corps, for whom it provides, by stipulating that what it does so provide shall be in lieu of such prize-money. Congress, therefore, intended, by the body of the resolution, to embrace all the corps serving "with the army in the war," whether such service was had on ship-board or on land; and, in order to place all upon an equal footing, provided that what it gave, in addition to ordinary pay, as "bounty land and other remuneration," should be in lieu of prize-money when any part of the corps had earned that. The object was to place all on the same level—to give no advantage to one part over any other part of the corps serving with the army in the war; and as they designed to embrace the whole portion of the corps so serving—those whose service on board ship might have given right to prize-money, as well as those who, serving on land, could not have acquired it—they inserted the proviso. It is impossible, I think, to doubt that the only conceivable reason for the proviso is, that the resolution embraced service by the corps on ship-board, as well as on land.

I answer your inquiry, then, by saying that, in my opinion, the entire portion of the marine corps, whether serving on land or on board ship on the Mexican coast, in the Mexican war, are to be considered within the true meaning of the resolution of the 10th of August, 1848, as having "served with the army in the war with Mexico," and entitled to the "bounty land and other remuneration" it provides.

But in awarding it to such of the corps as may have received prize-money, such money should, in the account, be carried to the

credit of the government ; or, when not received, should be released.

To the SECRETARY OF THE NAVY. REVERDY JOHNSON.

[114.]

"CLAIM OF THE WIDOW AND CHILDREN OF GENERAL KEARNY.—The relatives of a deceased officer or soldier are not entitled, under the act of 19th July, 1848, to receive three months' extra pay on account of services of the ancestor, unless the ancestor was thus entitled at his demise.

"Such claims are predicated on the idea that they are his statutory representatives, and as such they can only take that which the decedent himself could have taken had he survived.

"And as those who did not engage for the war, for five years, or for any other specific period, and who were never honorably discharged, were not themselves entitled, their representatives have no valid claim."

ATTORNEY GENERAL'S OFFICE, Nov. 2, 1849.

SIR: Are the widows, children, &c., of officers of the army who were engaged in the military service of the United States in the war with Mexico, and who, being retained in the army, have since died in the service, or may hereafter so die, entitled to three months' extra pay provided in certain cases by the fifth section of the act of 19th July, 1848? (*Session acts*, p. 74.)

The question you have submitted to me in the case of the widow of the late General Kearny, I have duly considered. If such claims are well founded, they are so by virtue of the act referred to, and not otherwise; there being no other law upon the subject. Are they embraced by that act? I think not. The section referred to (the other sections are for different objects) is not as well drawn as it might have been, but its meaning is nevertheless, I think, quite clear as to one point; and, if so, it is decisive against such claims. It is this: that the widows, children, parents, brothers, and sisters, who were in succession to be entitled to the extra pay on the contingency of the officer's death subsequent to the date of the act, are only the widows, &c., of such officers who were themselves before death entitled to the pay. In other words, the provision for their representatives assumes that the title to the pay was vested in the ancestor before and at the time of his death. He, the ancestor, (the officer,) is, if living, to receive it; it is his right. He was the personal object of the nation's bounty; to him it is to be paid, if he demands it. And it is only contingently upon his dying after the act, without demanding and being paid it, or, in the language of the section, upon his death "without receiving the three months' pay herein provided for," that the particular representatives mentioned in the act are to be allowed it.

To decide, therefore, in what instances the allowance is to be made to them, we must ascertain in each case whether the deceased officer was himself entitled to it before and at his death; for, if not, they are not. Their claim is through him, as his

statutory representatives. They get it because it was his; and, being his, has by death descended under the act to them. Who, then, are the officers entitled? This depends upon the first part of the section read in connexion (as it must be) with the grant of the pay in the words immediately preceding the proviso to the section and with the proviso. So read, the provision is: "That the officers, &c., engaged in the military service of the United States in the war with Mexico, and who served out the term of their engagement, or have been or may be honorably discharged, shall be entitled to receive three months' extra pay, provided, &c., that they have been in actual service during the war." It is to the officer himself, therefore, that the pay is given; and it is only given to him if the term of his engagement has been served out or he has been or may be honorably discharged; or, under part of the section, to his representatives, where he was killed in battle or died in service, or, being honorably discharged, died before the act, or, being so discharged before the act, dies after the act.

Besides the officers, the non-commissioned officers, musicians, and privates were also embraced. But to the title of each class, service to the end of their engagement or honorable discharge was made necessary to vest it in them. It was the right of Congress to make these the conditions of their grant; and they have done so. The Executive must see that they are performed in each case before he pays the allowance.

Service, then, to the end of his engagement, or honorable discharge out of it, must exist on the part of the officer to make his title to the pay good. Did either exist in the instance included in the question before me? I think not. The officers there referred to had not entered into the service of the United States for any definite time. Theirs was not an engagement for five years, or for any other specific period, or for the war. They held their commissions generally and permanently, without reference to time.

So, again, as regards them, it cannot be maintained that death in the after service of the country is to be esteemed an honorable discharge. The condition of discharge evidently was designed a discharge from the service of the officer himself in his lifetime. It was such a discharge as was to give him the right to the pay. To say this of a discharge by death would be absurd. The fact that would then give the right would, as far as the officer is concerned, render it useless.

What makes, in my opinion, this view more obvious is, that the section which provides for representatives assumes, except in cases of antecedent death, the right of the officer to the pay and his power to have received it in his lifetime. They, the representatives, are to be allowed it only when the ancestor has died, or may hereafter die, "without receiving the three months' pay herein provided for." It is, therefore, as to such an officer, as

statutory legal successors to the deceased, who, entitled to the pay in his lifetime, fails to receive it, that it is to be paid to them.

To the validity of their title it is necessary to establish an antecedent vested title in their ancestor; and this, as I think, cannot be done in the case of an officer retained in the service after the war, and afterwards dying in the service.

I am of opinion, therefore, that the claims referred to cannot be allowed.

REVERDY JOHNSON.

To the SECRETARY OF WAR.

[115.]

"RIGHTS TO BOUNTY LAND WARRANTS NOT DEVISABLE.—Soldiers entitled to bounty lands under the act of 11th February, 1847, but who have not received warrants therefor, cannot dispose of their rights to such land or scrip by will.

"The statute expressly directs, in cases of the death of soldiers before their warrants shall have issued, that they shall be issued in favor of, and enure to, the benefit of their families or relations, according to certain rules of priority; and further provides that the land shall not be in any wise affected or charged with, or subjected to, the payment of any debt or claim incurred by such soldiers prior to the issuing of such certificates or warrants."

ATTORNEY GENERAL'S OFFICE, June 28, 1850.

SIR: The question you have submitted to this office, upon the 9th section of the act of the 11th February, 1847, (*Session Laws*, p. 125,) has been considered. It is, whether the soldier to whom bounty is promised by this section can dispose of it by last will, when he dies before the certificate or warrant issues to him? I think not.

The construction of the Pension Office has, I understand, been uniformly in accordance with this view; and, in my opinion, that construction is the proper one. Neither the words of the law, nor its object, admit of any other. In the contingency of the death, which the question assumes, the direction of the law is positive that the "certificate or warrant shall be issued in favor and enure to the benefit of his (the soldier's) family or relations," according to certain prescribed rules of priority.

The supplementary act of the 27th of May, 1848, (*Session Laws*, p. 232,) changes these, but not so as to affect this question.

It also directs that "all sales, mortgages, powers, or *other instruments of writing*, made or executed prior to the issue of such warrant or certificate, shall be null and void to all intents and purposes whatsoever," and that the land shall not, in the hands of the family, "be in any wise affected by or charged with, or subject to, the payment of any debt or claim incurred by the soldier prior to the issuing of such certificate or warrant."

The clear design was to secure the bounty to the family of the deceased in all cases where that event should occur antecedent to the actual grant to him of the title. The whole was but bounty. It was for Congress to give it at once and absolutely to the sol-

dier, or qualifiedly, or conditionally. They have manifestly designed to vest the entire bounty in the family in all cases of death before, by being actually granted to the ancestor, it becomes thereby absolutely vested in him. With this view, they not only, in such a contingency, provide that the certificate and warrant shall "be issued in favor and enure to the benefit" of the family or relatives, but that it shall not in any way be responsible in their hands for "any debt or claim" of the ancestor, previously incurred, or be affected by any kind of contract or conveyance which he may have made.

The terms in which this last provision is made are sufficiently comprehensive to embrace a devise, as well as a disposition to take effect in the lifetime, and, of course, exclude the bounty from its operation.

I am clear, therefore, in the opinion that the construction of the Pension Office is the correct and the only one of which the section is susceptible.

REVERDY JOHNSON.

To the SECRETARY OF THE INTERIOR.

[116.]

"PENSIONS TO WIDOWS OF REVOLUTIONARY SOLDIERS.—The representatives of a widow of a revolutionary soldier, who received a pension under the act of 7th July, 1838, from the period of her husband's death to her own, have no claim for further payment on the pretence that her pension should have commenced at an earlier date.

"The pension having been a personal bounty to the widow herself, and the decision fixing the time for its commencement having been acquiesced in by her, it cannot now be contested by her representatives.

"All that passes to them on the death of a widow receiving a pension is the money which shall have actually accrued to her, and remains unpaid, for a pension allowed."

OFFICE OF THE ATTORNEY GENERAL, August 28, 1850.

SIR: In your letter of the 21st instant, you are pleased to propose for my advice the following question: "Are the representatives of a widow who died prior to the passage of the joint resolution of August 16, 1842, entitled to the benefit of the act of July 7, 1838?"

It would be difficult to answer the question in the general and abstract form in which it is put. But you inform me that it grows out of the case of Polly Knight, and refer me to the report of the Commissioner of Pensions and other papers connected with her case. From that report I have been enabled to learn the matter of controversy, and the particular point to which your general question was intended to apply.

It appears that Dr. John Knight was a pensioner for revolutionary services under the act of the 15th of May, 1828; that his pension was paid up to the 12th of March, 1838, when he died; that his widow, Polly Knight, under the act of July 7, 1838, applied for and obtained a pension in April, 1839, commencing at the time of his death, according to the practice of the Pension Office as it existed at the time; that pension was fully paid up to

the time of her death, which happened before the passage of the resolution of the 16th of August, 1842, and before the expiration of the five years for which it was granted, computing from the death of her husband, on the 12th of March, 1838. These are the only facts necessary to a decision of the case, according to the views I have taken of it.

Upon the above state of facts, the representatives of Mrs. Knight, since her death, contend that she was entitled to a pension under the act of 1838; that it ought to have been allowed to her from the 4th of March, 1836, and not from the death of her husband, on the 12th of March, 1838; and that they are now entitled to receive the amount of pension that would have accrued to her from the 4th of March, 1836, to the 12th of March, 1838.

The single question is, whether this is a legal and valid claim? My opinion is, that it is not, and that the claim ought to be disallowed.

Had Mrs. Knight been entitled to a pension to commence from the 4th March, 1836, yet having, during her life, acquiesced in the decision of the proper officer giving it a different commencement, her representatives have no right, as it seems to me, to contest that matter after her death. The pension was intended as a personal bounty to her, and not as a gratuity to her representatives. All that passed to them on her death was a right to have the money which had accrued under her pension as it had been actually allowed, and which remained unpaid at the time of her death.

To the SECRETARY OF THE INTERIOR. J. J. CRITTENDEN.

II.

DECISIONS OF SECRETARIES

IN RELATION TO

PENSIONS AND LAND BOUNTIES.

[1.]

Applicant for a pension not entitled thereto, unless he has been mustered in the United States service.

WAR DEPARTMENT, *October 4, 1821.**

SIR: Your letter, enclosing the papers of Thomas Pendexter, has been received. It appears, from the documents in this case, that the applicant, while a recruit and at the rendezvous, was taken sick, and was sent to a house which was occupied as an hospital, where the surgeon administered some medicine which was so violent in its operation as to cause an abdominal hernia. Pendexter not having joined his regiment previous to his being attacked by the sickness, his claim cannot be allowed; no one being entitled to a pension, under the laws providing for invalids, who has not been mustered into the service of the United States, and joined regiment or corps. The papers of Mr. Pendexter have been, agreeably to the regulations of the Department, placed on the files of the Pension Office with other rejected cases.

Hon. JOHN HOLMES, *Alfred, Maine.*

J. C. CALHOUN.

[2.]

Pensions shall commence at the completion of the testimony.

WAR DEPARTMENT, PENSION OFFICE, *December 11, 1822.*

SIR: In answer to the inquiry as to what has been the practice in cases of invalid pensioners placed on the list by special acts of Congress, as to the time of commencing the pensions, I have to state that the pension has been made to commence (so far as I have been able to ascertain by a reference to the files) at the date of the last deposition made in support of the claim. The 4th section of the act of the 10th of April, 1806, requires the pension to commence on the day when the claimant shall have completed his testimony before the authority proper to take the same.

* It would seem that the records of the War Department furnish no decisions in relation to pensions anterior to this date.

The 2d section of the act of the 4th February last declares that the pension shall commence at the time of completing the testimony pursuant to the act thereby revived.

Hon. J. C. CALHOUN, *Sec. of War.* J. L. EDWARDS.

[Indorsement.] WAR OFFICE, *December 11, 1822.*

In pension applications hereafter, the rule adopted by Congress, within alluded to, will be adhered to. .

J. C. CALHOUN.

[3.]

Proof of identity required in cases where the pension has not been claimed for one year or more.

WAR DEPARTMENT, *June 19, 1824.*

No payment will in future be made to any pensioner, either in person or by attorney, who has not applied for his pension for one year or more, without the production of evidence of his identity; the proof will consist of the certificate of a magistrate in the county in which the pensioner resides, setting forth either that he knows the applicant to be the identical pensioner named in the original pension certificate, which he must exhibit to the magistrate, or that it has been satisfactorily proven before him that he is such pensioner; the signature of the magistrate to be certified under the seal of the court of the county.

JAMES L. EDWARDS, Esq.

J. C. CALHOUN.

[4.]

To obtain a pension, disability must have occurred in the line of duty.

SURGEON GENERAL'S OFFICE, *July 15, 1824.*

SIR: In reply to your inquiry relative to the persons considered to be entitled to pensions, I am directed by the Secretary of War to state, that the law is understood to embrace only those who have been injured in the service of the United States, while actually employed in duties peculiar to them as soldiers; or from exposure to inclemencies of the weather at the posts, or stations at which they may have been put on duty; or, while on the march to such stations. Such complaints or injuries, therefore, as are merely the effect of time, or of peculiarity of constitution, or are produced by accidents to which they would have been equally liable in their ordinary occupations in civil life; or which have occurred by their own fault, cannot of course entitle to a pension from the United States.

JOS. LOVELL, *Surgeon General.*

DR. T. G. MOWER, *Surgeon U. S. Army.*

[5.]

When the rolls do not show the disability of an applicant, pension not to be granted without explanation.

WAR DEPARTMENT, *January 10, 1825.*

SIR: The memorial and papers in support of the claim of Laban Brown to a pension, which were referred to this department by the Committee on Pensions, have been examined.

The rule in the investigation of such cases is, not to grant a pension for disability alleged to have been incurred during or since the late war, unless the testimony adduced by the applicant be corroborated by the rolls in this or the Treasury Department, except only in cases where sufficient reasons are given for the want of such corroborated evidence. In this case, there is no return made of the claimant's disability, nor is there any reason assigned for the omission of such return. Under this rule, the claim cannot be allowed. As it is deemed important, it cannot be dispensed with. The documents are herewith returned.

J. C. CALHOUN.

Hon. PETER LITTLE, *Ch. Com. Pen. & Rev. Claims, H. R.*

[6.]

Debts of claimants to be taken into the estimate of their indigence.

WAR OFFICE, *May 13, 1826.*

The rule heretofore observed in deciding on revolutionary claims, which directs that no debts due from claimants, except judgment debts, are to be taken into consideration, is hereby rescinded.* In future, the amount of debts of every description, due from the claimant, when proved to be *bona fide* debts, will be deducted from the amount of the schedule, and the balance then remaining in the claimant's possession, free of incumbrance, will determine the claimant's right to the pension, on account of indigence.

To J. L. EDWARDS, Esq.

JAMES BARBOUR.

[7.]

Yearly interest of property, if less than the amount of pension, not to interfere.

DEPARTMENT OF WAR, *October 15, 1828.*

The rule † of the department in regard to revolutionary *soldiers* is understood to be, not to withhold a pension on the ground of property, unless the yearly value of the property possessed by the claimant, shall exceed the amount of the pension.

* The rescinded rule, heretofore observed, was never reduced to writing, and therefore cannot be formally introduced here; but its substance is sufficiently stated in the rescinding rule.

† The rule referred to, was hitherto only verbal; but the above recognition of it has applied the deficiency thereafter.

By the application of the same principle to *officers*, (our laws having throughout recognized a distinction between the living and expenses of an officer and private soldier,) it would seem that property should be no bar to the claim of an officer, when its yearly value does not exceed the amount of *his* pension.

To J. L. EDWARDS, Esq.

P. B. PORTER.

[8.]

Total disability defined to be that (however trivial) which cannot be wholly or in part removed.

DEPARTMENT OF WAR, *October 23, 1828.*

SIR: In answer to your inquiry of this morning, I unhesitatingly give it as my opinion that the words "total disability," as used in the proviso of the act, entitled "An act regulating the payments to invalid pensioners," passed March 3, 1819, were intended as descriptive only of the *nature or character*, and not of the *extent* of those disabilities—the biennial repetition of the proof of which is declared to be unnecessary.

The object of the enacting clause of this law, which contains but one section, is to oblige pensioners to exhibit proofs of the state of their respective disabilities at given periods, with a view to graduate the amount of the pension by the extent of the disability for the time being.

The object and spirit of the proviso is to save those pensioners who are placed on the list in consequence of disabilities which are in their nature permanent and unchangeable, the trouble and expense of a useless repetition of proof; and they equally embrace cases (technically speaking) of partial and total disability. The word "total", therefore, as here used in connexion with "disability," should not be taken in its technical sense, as indicating that extent of disability which entitles to a full pension; but in its ordinary sense, and conveying the same meaning as if the word perfect, a complete, a permanent, (for each of which it is often used as a substitute,) had been employed. The proviso indeed explains itself by adding to the words "total disability," the following exemplification of its meaning, viz: "in consequence of the loss of a limb, or other causes which cannot, either in whole or in part be removed."

If a soldier loses an arm or a leg, he presents a case of total disability, which entitles him to a full pension, and he need not repeat his proof, because the record shows that the disability is such as cannot in the nature of things be removed. But if a man lose only two fingers or two toes, it is a case of partial disability, and he receives only a part pension. It would however be equally idle and absurd to require him in this case to prove every two years that his fingers or toes have not grown out again, as it would, in the other, to oblige him to show that his arm or leg has not been restored.

P. B. PORTER.

JAMES L. EDWARDS, Esq., *Pension Office.*

[9.]

Provision for wounds and disabilities not repealed.

DEPARTMENT OF WAR, November 18, 1828.

SIR: The Attorney General, to whom the question has been referred, has given his opinion,* in which this Department fully concurs, that the act of the 2d of March, 1821, "to reduce and fix the military peace establishment" does not repeal or vary the pre-existing laws on the subject of pensions; and that the same provision "for wounds and disabilities," which existed under the act of March 3, 1815, are still in force, under the analogous act of March 2, 1821.

P. B. PORTER.

MR. JAMES L. EDWARDS, *Pension Office*.

[10.]

Rules to correct inequalities in estimating the indigence of applicants for pensions.

DEPARTMENT OF WAR, December 26, 1828.

SIR: The present practice of your office, in regard to the amount of property which under the law of May 1, 1820, shall disqualify a person from receiving a pension, is deemed to be unequal in its operation on different classes of applicants: to correct which inequality, the following rules will hereafter be observed.

The object of the pension law is to provide for the absolute wants of the poor but meritorious soldier, of the revolution: and the highest rate of pension is supposed to be the smallest sum that will afford a comfortable support to an individual. In accordance with this principle, the following rule has been adopted by the Department, and is hereby continued, viz:

1st. When the whole property of the applicant consists in a yearly or fixed income, (such as an annuity for life, bequest, rent, or charge upon lands, or any other incorporeal right,) which is not convertible into capital, he shall not be deprived of a pension, unless such yearly income exceed the full yearly pension of a soldier.

In addition to which the following rules, corresponding in principle, are hereby established.

2d. When the applicant's property consists in money, stock, houses, lands, or such other property as he can, at pleasure, convert into money or capital, it shall not deprive him of the right of pension, unless its yearly proceeds, estimating them at ten *per cent.* on its total value, shall be equal to the amount of a full pension.

3d. When the applicant's property is mixed and consists of both species, he shall not lose his pension, unless their aggregate

* See opinion of Mr. Wirt, No. [24.] p. 356, ante.

income, estimating by the preceding rules, shall amount to a full yearly pension.

As the pension laws of 1818 and 1820, are not predicated on any pre-existing engagement of the government, but were intended as a gratuitous provision for the support of aged individuals, for the time being, the two last regulations will not be considered as retrospective in their operation.

To obtain the benefits arising from the foregoing regulations, in every case where a claim has been rejected under the former regulations, a new declaration is now deemed essentially necessary, in order to show what is the present state of the claimant's property and to prove his indentity.

MR. J. L. EDWARDS.

P. B. PORTER.

[11.]

Rules [13] ante, based on the destitution of the applicant.

DEPARTMENT OF WAR, *February 2, 1829.*

SIR: The regulations of the 26th of December last, in regard to the effect of property on the right of pension, were intended to rescind and supercede all pre-existing regulations on that subject; and were based upon the following simple principles, viz:

It being the declared object of the law to make provision for such revolutionary officers and soldiers and such only, as had performed certain services, *and were destitute of the means of supporting themselves*, and the sum of eight dollars a month, or 96 dollars a year, having been assumed as the smallest amount that would afford a comfortable support to an individual; it follows of course that where the applicant's property is not sufficient (estimating by the rule laid down in the regulations,) to produce that income, he is entitled to the benefit of the law; but if his property exceed that amount, he is not deemed to fall within its provisions.

The distinction formerly recognised between an officer and a private, in regard to the amount of property which should operate as a disqualification, is of course done away—the more liberal provision of the late regulations rendering its continuance unnecessary.

JAMES L. EDWARDS, Esq.

P. B. PORTER.

[12.]

Officers in receipt of pay in the army, not to be placed on the pension list.

WAR DEPARTMENT, *April 18, 1829.*

The President of the United States directs that, in future, no person while in the receipt of pay or emoluments as an officer of the army, shall be placed on the pension list.

The rule of the 11th of December, 1822, is rescinded. Hereafter the evidence in no invalid case, where the laws direct the President to prescribe regulations, shall be considered complete, until it shall have been duly authenticated; and no surgeon's affidavit or certificate shall be deemed evidence of disability sufficient to justify the issue of a pension certificate, unless the same shall have been received at this department within one month from the date thereof.

By order of the President U. States.

J. L. EDWARDS, Esq.

JNO. H. EATON.

[13.]

Pension to commence from the date of the examination of the claim in the office.

The evidence in support of pension claims is not deemed to be complete until decided on by the War Department. In future, therefore, the pension in all cases is to commence at the time when the decisions is had on the claim, unless there has been a delay in the examination of the department; in which case, the pension is to commence at the time when the documents in support of the claim are received.

Affidavits or certificates in relation to invalid claims, whether original or for increase of pensions, may be received as evidence, if deposited in the department within three months from the date thereof.

Under the act of March 2, 1829, the widow or children of a deceased pensioner, as the case may be, must prove that they are such, before a court of record, and get a certificate of the fact from the clerk of the court, under his seal of office, before the arrears can be paid, according to said act.

Approved, December 22, 1829.

J. H. EATON.

[14.]

Indigence occasioned by alleged debts to children must be clearly shown.

WAR DEPARTMENT, *January 19, 1830.*

SIR: In cases of alleged indigence and revolutionary pensions, sought for in your office, let this rule prevail, which will save any future references to me.

In cases where the indigence has been occasioned by claims derived from children, let it clearly appear that the debts arose for fair and proper consideration. If for services rendered, that must be made apparent by written contract.

J. L. EDWARDS, Esq.

J. H. EATON.

[15.]

The case of "Ferguson for a pension," shows that official delays jeopard the claims of applicants.

WAR DEPARTMENT, *April 27, 1830.*

In 1825* it was determined that this was not a case of disability which came within the provisions of the acts extending invalid pensions. Subsequently it was decided differently by the Attorney General, and in 1827 the applicant was apprised of that decision, and instructed to complete his proof by procuring the certificate of two surgeons to the disability. In 1825 the proof was complete—Doctors Lovell and Pitcher having certified that the disability was one-half. In 1827,† when the opinion of the Attorney General was had, Ferguson could not have been admitted under the surgeons' certificate then on file, because two years had elapsed, within which time by the regulations, even had his name been placed on the roll, it could not have continued without a re-examination and further certificate. Thus, without offering the proof required, the matter rested until the 19th instant, when Dr. Pitcher again, though alone, certifies to the continued disability. Still the case is not brought within the regulation, the certificate of another surgeon being wanted; yet, for the reason that this case has been so protracted, I think the certificate of this single surgeon may be placed in connexion with that of Dr. Lovell given in 1824, so as to induce to the conclusion that the proof was completed on the 19th of April, 1830. From that period let him be enrolled.

J. L. EDWARDS, Esq.

J. H. EATON.

[16.]

Claims for increase of pension to be presented periodically through the agents for paying pensions.

APRIL 11, 1831.

No claim to an increase of pension will be examined, except at those periods when the biennial examinations take place. The usual evidence will then be prepared, and presented to the pension agent where payment is made. He will forward the surgeons' affidavit, pension certificate, &c., to the War Department, with a statement by him that he knows the surgeons to be reputable in their profession, or believes, on the information of others, that they are so.

J. H. EATON.

* This was a verbal decision on the case, of which there are no documents; but that defect is supplied by the above recognition.

† This also was a verbal decision on the case, of which there are no documents; but that defect is supplied by the above recognition.

[17.]

Total disability reduced to half disability, and finally eoparded by official impediment.

WAR DEPRATMENT, *May 11, 1831.*

Elijah Layton, an invalid pensioner, was paid last to the 4th of March, 1819. He was then paid for total disability. Since that time he has received nothing—having never made application. He now applies for his arrearage of pension from March, 1819, to this time. His present certificate shows only half disability.

By the act of the 3d of March, 1819, it is provided that thereafter the certificate of two respectable surgeons, properly certified, should be necessary to authorize the payment of invalid pensions; and that the same should be repeated every two years. Mr. Layton has failed to comply with this act, and, of course, is excluded from the benefit of the pension heretofore allowed. He must now make out a case *de novo*, with certain evidence as to his identity.

J. H. EATON.

P. S. This rule is to be general.

[18.]

Rule [14,] ante, rescinded.

WAR DEPARTMENT, *October 21, 1831.*

SIR: So much of the regulation made by the Secretary of War, in his letter to you of January 19, 1830, as requires that a written contract shall be produced in all claims for services made by children against their father, will hereafter be rescinded.

J. L. EDWARDS, Esq.

LEWIS CASS.

[19.]

Rule [16,] ante, rescinded.

WAR DEPARTMENT, *November 17, 1831.*

The rule of April 11, 1831, which directs that no application for an increase of pension shall be made except at the biennial examination, is hereby rescinded. All applications for increase will, however, be made as heretofore, through the pension agents, in order that the agents may certify as to the character of the surgeons, except in cases only where the surgeons are known to this department, or where the examinations are made by surgeons of the army.

LEWIS CASS.

[20.]

The administration of the pension laws must proceed on general principles.

WAR DEPARTMENT, *January 20, 1832.*

This department, in the administration of the pension laws, as well as in all other cases, must proceed upon general principles, applicable to all who present their claims for consideration, and calculated to secure the just rights of individuals, as well as of the government.

Numerous cases have been presented, where, since the passage of the pension laws, property has been conveyed to members of the applicant's family, or sold, and the proceeds appropriated to the payment of debts, said to be due to them. Such cases are *prima facie* objectionable. They came forward under suspicious circumstances. And to prevent that abuse, to which they might otherwise lead, the transaction should be fully explained, and, as far as possible, by persons not connected with the parties.

In this case, the statement of the father and son is, that the latter labored for the former from 1816 till 1824, when, upon the sale of the property, he was paid \$480.

This is not satisfactory to me. It appears highly improbable that the young man should work eight years without any pay or security, or evidence of debt. And I also require other testimony to show the amount and value of this labor, and the relative situation and circumstances of these persons, during this time.

J. L. EDWARDS, Esq.

L. CASS.

[21.]

Rule [13,] ante, rescinded—proof complete at the date of last certificate.

WAR DEPARTMENT, *January 30, 1832.*

The rule of the 14th of January, 1830, (December 22, 1829, [13,] ante,) which declares that the testimony in support of a pension claim is not considered complete until a decision is made on the case by the proper officer of the Department, except in cases where delay occurs imputable to the Department, is hereby rescinded; and the rule is revived, which declares that the evidence is perfect when no objection whatever exists to the admission of the claim. In future, therefore, the pension will commence at the date of the last certificate which authenticates the papers. Pensions granted to officers or soldiers of the present peace establishment will commence at the date of the last certificate of the officer whose duty it is to certify, and if, in any case, an affidavit should be necessary, then the rule above mentioned is to be observed. The acts respecting invalids of the revolution are so explicit as to render any rule unnecessary.

The rule of November, 1830,* respecting agents, is also rescinded.

L. CASS.

* This rescinded rule does not appear on the record.

[22.]

Probate courts in Vermont are courts of record.

DEPARTMENT OF WAR, *November 2, 1832.*

SIR: On consultation with the Attorney General, I have decided that the probate courts of Vermont are courts of record, within the meaning of the regulations prescribed by this Department, for carrying into effect the act of June 7th, 1832, granting revolutionary pensions, and those courts will be recognised as such in the administration of that law.

J. L. EDWARDS, Esq.

LEW. CASS.

[23.]

The practice of the office, or general legal provision, do not govern or render inoperative the provisions of special acts.

WAR DEPARTMENT, PENSION OFFICE, *January 3, 1833.*

SIR: The act of 14th July, 1832, chapter 260, section C, directs the Secretary of War to place the name of J. P. Preston on the invalid pension roll as an officer of the late war, and to allow him "the amount which would have been due him had he made his application at the time he received his wound." In November, 1813, when Colonel Preston was wounded, the practice of this Department was not to allow a pension to any officer while in the service. If Colonel Preston had therefore at that time applied, he could not have obtained a pension agreeably to the then existing rule, unless he had first resigned his commission, in which case the pension would have commenced at the time of his resignation.

Upon the principle adopted by the Department, Colonel Preston's pension was allowed from the time when his pay as an officer ceased. The Colonel remained in the service till the army was disbanded, on the 15th June, 1815, from which period his stipend has been paid.

The letter of the Hon. J. Y. Mason on the subject is herewith returned.

Hon. LEWIS CASS.

J. L. EDWARDS.

DEPARTMENT OF WAR,* *January 3, 1833.*

In the case of Colonel Preston, presented by Mr. Mason, I am of opinion that the pension allowed by the act of Congress of July 14th, 1832, should commence from the day Colonel Preston received his wound, and in this opinion the Attorney General coincides. From the phraseology of the law, it is evident to me that Congress considered the day of the disability as the proper period for the commencement of the pension. He is allowed "the same amount which would have been due to him had he made his application at the time he received his wound." If the practice of the office, which did not allow the granting of a pension

*Answer to the above.

to another while in the service, could control the above provision, the period fixed by the legislature would be inoperative and useless. That practice was not required by the original pension law. It was a matter of executive regulation, and might at any time have been dispensed with by executive authority. If Congress had intended it should have been adhered to in this case, the provision would naturally have been—Colonel Preston should receive his pension from the period when he quit the army. The reference to an earlier period must have some meaning, and the only rational construction I can put upon the clause [is] that Colonel Preston's pension should commence when his disability commenced: the object of the act being clearly to dispense with the application, and to fix, itself, the time from which the pension should be drawn.

It may be added that subsequently to this time, instances occurred in which pensions were granted to officers of the army while they continued in service.

LEW. CASS.

[24.]

Officer disabled in line of duty in a higher grade than his commission, is entitled to pension according to the higher grade, though not commissioned.

WAR DEPARTMENT, PENSION OFFICE, *January 15, 1833.*

SIR: I have the honor to report the question made by the representatives of Peter S. Schuyler, agreeably to your instructions. The accompanying paper, marked A, presents the question and the facts which enter into its merits; B is the extract of the minutes of the Provincial Congress relied upon by the representative; and C a copy of the proposed answer of the department.

The Hon. L. CASS, *Secretary of War.* J. L. EDWARDS.

The within question has been referred to the Attorney General.* He is of opinion that service in a military office, even although the commission may not be issued, or may not date back to the commencement of the service, entitles the person to a pension for such service. See the rule be so applied in this case.

L. CASS.

[25.]

Evidence of a commission necessary in certain cases.

WAR DEPARTMENT, *February 21, 1833.*

Claims are frequently presented, under the act of 7th of June, 1832, of persons who allege that they acted as officers without receiving commissions. Such applications should be received with caution, and examined with special reference to the peculiar circumstances of each case. A commission is not in every case indispensably necessary to invest a person with rank or

* This is endorsed as an answer to the above.

command, or to entitle him to the emoluments of the office which he fills; but some act or instrument of writing tantamount to a commission, or promise of a commission, is deemed essential. It must in all cases be clearly shown that the person who claims as an officer, and never held a commission as such, was prevented from receiving one in consequence of peculiar circumstances over which he had no control. The mere asseveration of a person as to his having performed the duty incumbent on an officer of a certain grade, does not entitle him to the pension due to an officer of that grade.

LEWIS CASS.

[26.]

Member of Congress may certify as to the character of a surgeon.

WAR DEPARTMENT, *November 29, 1833.*

The rule of November 17, 1831, is hereby so amended as to allow the certificate of a member of Congress, as to the character of a surgeon or physician, to be received in a case where the pensioner cannot conveniently obtain the certificate of the agent for paying pensions.

LEWIS CASS.

[27.]

Testimony of two witnesses as to disability required, in cases where commanding officers are dead.

WAR DEPARTMENT, *June 17, 1834.*

The rule of December 23, 1817, which requires the testimony of a commissioned officer to show the origin and nature of the corporeal disability of an applicant for a pension, may be dispensed with in a case where it is clearly shown that such evidence cannot be obtained, and where other satisfactory proof of disability can be obtained. In such a case, the following rules of evidence will be adhered to.

1. The applicant must make a declaration setting forth all the material facts in the case, and the surgeon must testify as the rule of December 23, 1817, directs.

2. He must prove, by persons of known respectability, that the officers mentioned by the claimant in his deposition are dead, or removed to such a distance as to render it impracticable to obtain their affidavits. The person or persons who may give such evidence must state particularly all the knowledge they may possess in relation to the death or removal of such officers.

3. In such a case as that mentioned in rule No. 2, the applicant must produce the testimony of at least two credible witnesses, whose good character must be vouched for by some one known to this department. The witnesses must give a minute

narrative of all the facts in relation to the matter, and it must be shown conclusively, by their testimony, that the disability of the claimant is to be ascribed solely to injury sustained while the claimant was in the discharge of military duty in the service of the United States. The witnesses must show how they acquired a knowledge of the facts set forth, and state in what capacity or grade they served.

The affidavits must be authenticated in the same manner prescribed by the rule of December 23, 1817.

LEWIS CASS.

[28.]

A person discharged as a minor not deprived of his right to a pension.

FEBRUARY 10, 1836.

If a person enlists in the service, and, while there, is disabled, and entitled under existing laws to a pension, and subsequently discharged before the expiration of his term, as a minor, I think he does not lose his claim to a pension.

LEWIS CASS.

[29.]

Declaration may be made by a relative of a claimant in case of insanity.

On consultation with the Attorney General, he is of opinion that, in all cases of insanity or of mental infirmity destroying the faculties, the statement of the nearest relatives of a person claiming a pension may be received under oath, recapitulating his own account of his services as given prior to such incapacity; and that if such statement would have been sufficient to warrant the pension, if made by the party himself, it shall be deemed sufficient in those cases.

Let this be the rule.

LEWIS CASS.

[30.]

Executors or administrators are the legal representatives in claims on account of service in the Virginia State line.

WAR DEPARTMENT, March 5, 1836.

SIR: In consequence of the opinion given by the Attorney General, in his communication to this department of yesterday, that the executors or administrators (as the case may be) are the legal representatives contemplated by the act of Congress of the 5th July, 1832, of all deceased officers included in the act, the rule which requires that the assent of the heirs be had to the payment of the money to the administrator or attorney at law, or in fact, is hereby rescinded.

To the COMMISSIONER OF PENSIONS.

LEWIS CASS.

[31.]

Overpayments considered as a debt in certain cases.

WAR DEPARTMENT, PENSION OFFICE, *February 20, 1837.*

SIR: In relation to the case of Richard Vernon, referred to in the enclosed letter from the honorable A. P. Maury, I have the honor to make the following report:

Captain Vernon's pension of \$420 for two years' alleged service was granted at a time when the department possessed but an imperfect knowledge of the service of the troops with whom he served, and principally upon his own statement as to the duration of each tour of service, though he had abundant proof of his having several times been called on to perform militia duty. So soon as it was ascertained that his service fell short of one full year, the pension was reduced to \$189, the amount due for eight months as lieutenant, and four months and four days as captain. In conformity with the practice of this department, the amount overpaid has been directed to be stopped from future payments. Mr. Maury appeals from the decision of this office in this case, on the ground that the retention of the pension until the government shall have been reimbursed is illegal. The question on this point is submitted to your consideration.

J. L. EDWARDS.

HON. B. F. BUTLER, *Secretary of War ad interim.*

Except where the overpayment has been made by *fraud*, I think it most agreeable to the spirit of the pension laws to treat the overpayment in the light of money paid and received by *mistake*, and constituting a *debt* from the pensioner to the United States, which is no bar to the payment of the pension, according to the equity of the act of 20th May, 1836.

March 13, 1837.

B. F. BUTLER.

[32.]

Pension of a husband not to be deducted in certain cases.

WAR DEPARTMENT, PENSION OFFICE, *July 24, 1837.*

SIR: I have the honor to state the following case for your decision:

Catharine Oakley, formerly Catharine See, was married to William Douglass in 1778, and at different periods, before and after the marriage, he served nine months, for which service she is entitled to a pension under the 3d section of the act of July 4th, 1836. But, after the death of Douglass, she married on the 1st of March, 1832, a pensioner named William Oakley, who died on the 2d November, 1835. As by the decision of the department, in conformity with the opinion of the Attorney General, the widow of a person who was a revolutionary pensioner, and who died

after the 4th March, 1831, cannot be allowed to draw from an earlier period than the day of his death, it would seem to establish the principle that the widow who may become a pensioner cannot draw pay for any period during which her husband received a stipend. If Douglass, who died in 1832, had drawn a pension up to the year in which he died, there would be no question as to the propriety of deducting the amount which he might have received. Such a deduction would be in strict conformity with the practice of the office. But a doubt arises in this case, whether the amount paid to Oakley can be deducted; because, although, as his wife, she derived some small benefit from his pension on account of his revolutionary service, yet, as that service could not, under the act of July 4th, 1836, be availing to her, it does not appear to accord strictly with principles of justice that she should not reap all the advantages which the services of the first husband gave her. The pension of 1836 was intended as a reward for the sufferings of those women who had husbands in the service during the revolutionary struggle; and it would seem to be an infringement of their rights not to allow them the full amount to which their husbands would have been entitled under the act of June 7, 1832. I submit, therefore, the following question:

Can the pension paid to William Oakley, during the time he was husband to Catharine Oakley, be deducted from the amount due to her, under the act of July 4, 1836, on account of the revolutionary services of William Douglass, to whom she was married during said service?

J. L. EDWARDS.

HON. JOEL R. POINSETT, *Secretary of War.*

The pension paid Oakley during the period he was husband of Catharine, widow of Douglass, ought not to be deducted from the pension due her on account of the services of her former husband.

J. R. POINSETT.

[33.]

Decision of supreme court of appeals of Virginia binding on Department of War, under act of 5th of July, 1832.

WAR OFFICE, August 16, 1832.

The case of Doctor John Applewhaite, deceased, having been decided by the superior court of Henrico in favor of the claimant, on the principles of the half pay cases already decided in the supreme court of appeals of the State of Virginia, the decision is, in my opinion, binding upon the department, and there is a legal obligation under the 5th clause of the last section of the act of the 5th July, 1832, to pay the money due the heirs of the deceased Dr. Applewhaite.

J. R. POINSETT.

[34.]

Certificate of United States judge as to the character of a surgeon.

WAR DEPARTMENT, *December 4, 1838.*

The rule of November 17, 1831, is hereby so amended as to allow the certificate of a judge of any of the United States courts, as to the character of a surgeon or physician, to be received in a case where the pensioner cannot conveniently obtain the certificate of the agent for paying pensioners.

J. R. POINSETT.

[35.]

Children of soldiers, or of their widows, may draw what was due to their parents when they died, although not claimed, or the proof might not have been perfected, at their death.

TREASURY DEPARTMENT, *March 29, 1839.*

SIR: Yours of the 27th and 28th instant, relating to a requisition for "unclaimed pensions" issued in favor of Jesse Gove, Vermont, is received, and I will delay issuing the warrant until I hear again from you.

In respect to the other point, I had always supposed that the granting a pension was a personal matter, and when the claimant died, the claim did not descend to his heirs or representatives; or if the certificate issued incautiously to a claimant after his death, that it was void. Any other view I supposed would lead thousands to apply for pensions for their fathers and grandfathers who may have died after the law passed, and with claims to the pensions, but who never perfected their title, and obtained the certificate while living. If the certificate issued while the claimant was living, then, of course, I supposed the heirs could receive any arrearages, and only then. If there has been an opinion of the Attorney General the other way, or any express legislation, then, of course, no doubt could be sustained in the case; but, otherwise, I would thank you to lay this letter before the Secretary of War.

JAMES L. EDWARDS, Esq.

LEVI WOODBURY.

TREASURY DEPARTMENT, *April 4, 1839*

SIR: Yours of yesterday is received, noting an endorsement upon a communication from this department of the 29th ultimo, by the honorable the Secretary of War, with regard to "unclaimed pensions."

The pension laws in the Navy Department are, in several respects, different from those in the War Department. In the navy they often were for *wounds* received, or were sums given for a limited term of years to maintain children of persons deceased in the service; and, generally, I suspect, required no application and *oath* by the party claiming the pension to his *poverty, service, &c.*

But in the cases of persons in the War Department, under the act of March, 1818, if not under other acts, the *oath* of the party claiming was expressly required by regulation, if not by such laws; and I do not see how it could be dispensed with, when required by either, and especially if by law. Nor do I see how a pension could descend to the heirs, if the fund was a gratuity, as in the present case, merely to *maintain* the claimant while alive, and he or she did not choose to apply for it, or did not apply and succeed in season.

But if the case in the *Navy* Department is, on examination of the facts, supposed by the Secretary of War to be similar in all respects to the present one, I shall be happy to acquiesce. Otherwise, it would seem to me expedient to take the opinion of the Attorney General in *this description* of pensions.

J. L. EDWARDS, Esq.

LEVI WOODBURY.

WAR DEPARTMENT, PENSION OFFICE, *April 5, 1839.*

SIR: I have the honor to acknowledge the receipt of your letter of yesterday. The endorsement of the Secretary of War, to which you allude, was not made on your letter, but on a communication made by me on the subject, a copy of which I now enclose, from which you will perceive that the practice in this office of granting to the widow or children of an officer or soldier the amount due to the deceased, although he failed to apply for it, originated in a written rule which emanated immediately from the Secretary of War in 1832. The principle appears to have been sanctioned by Congress, as it was promulgated in the regulations under the act of June 7, 1832, and ten thousand of those regulations were printed by order of Congress. So long ago as in July, 1828, it was the practice of the Treasury Department, under the act of May 15, 1828, to pay the amount due, although the officer or soldier might not have applied. The Attorney General, however, does not appear to have been consulted on the subject.

The laws in relation to pensions granted in this office embraces every variety of descriptions that the navy pension laws provide for. The only pensions in which the widow or children are allowed any part of the pension after the officer or soldier's death, unless he made application and first established his claim, are those under the acts of May 15, 1828, June 7, 1832, July 4, 1836, and July 7, 1838. The acts in relation to invalids allow the pension from the time when the claimant completes his proof. The act of March 18, 1818, makes it indispensably necessary that the claimant should make a declaration before a court of record, and not only prove his service, but his indigence also. Those pensions also commence at the time when the officer or soldier completes his proof.

I have laid a copy of your last letter before the Secretary of War, with a copy of this communication.

Hon. L. WOODBURY.

J. L. EDWARDS.

TREASURY DEPARTMENT, *April 17, 1839.*

SIR: Yours in reference to the claim of Mrs. Green for arrearages, or "unclaimed pensions," is received. Before issuing a warrant for so large a sum, I would be obliged to know if the Secretary of War has re-examined the law upon which the pension in this case was granted, and is, on reflection, satisfied that it is a case where the ancestor of the heir, though entitled, did not receive a certificate while living.

JAMES L. EDWARDS, Esq.

LEVI WOODBURY.

Upon the above letter, the Secretary of War made the following endorsement:

I find, on examining into the subject, that both the invariable practice of this department under my predecessors, and the united opinions of Mr. Attorney General Wirt and Mr. Attorney General Butler, warrant the construction put upon the law by the Commissioner of Pensions.

J. R. POINSETT.

[36.]

Pensions to widows under act of July 7, 1839, to begin when the husband's pension terminated in certain cases.

WAR DEPARTMENT, *Pension Office, April 1, 1839.*

SIR: At the instance of A. Ward, Esq., of Sing Sing, New York, I enclose herewith three letters touching the case of Abigail Delamater. This is a case in which Mr. Ward appeals from the decision of this office. The grounds of his appeal will be seen in his letter of the 25th ultimo. Under the law of July 4th, 1836, the pension is directed to commence on the 4th of March, 1831, and in all cases it does commence on that day, provided the husband was not a pensioner at that time; but if he was a pensioner after the 4th of March, 1831, the practice is to commence the pension on the day when he died, because it is believed that it was not the intention of Congress to permit the widow to receive a pension for any part of the time during which the husband was a pensioner. The Attorney General, in his opinion on this subject, dated the 13th of April, 1837, says that "in all cases where the husband was in the receipt of a pension [after the 4th March, 1831,] under any of the revolutionary pension laws, until the time of his death, the pension of the widow, under the act of July 4th, 1836, can only commence from the date of her husband's death. This is evidently the general principle of the law." Now, the principle I understand to be the same in both laws, from the close analogy which exists between the two classes of cases. Mrs. Delamater's husband, Isaac, was a pensioner under the act of June 7th, 1832, and died on the 9th of July, 1837. Up to the day of his death the pension was paid,

and her pension commenced when his terminated. This is the rule under the act of 1836, supported by the opinion of the Attorney General; and the same rule has obtained under the act of 1838. If the decision be erroneous, the Secretary of War, or the Attorney General, will reverse it.

Hon. J. R. POINSETT.

J. L. EDWARDS.

This letter was endorsed by the Secretary of War in the following words:

This opinion and decision of the Commissioner of Pensions are fully concurred in by me, and are so clearly right, and so entirely in conformity with the opinion of the late Attorney General, that it is not deemed necessary to consult Mr. Grundy on the subject.

J. R. POINSETT.

[37.]

Children of the widow, and not an executor, entitled to the amount due her.

WAR DEPARTMENT, *January 25, 1840.*

The widow of ——— Knowles, an officer of the revolutionary army, had children by him, who survived him, and some or all of them are still living. After his death, she intermarried with ——— Foot, and had issue by him, who are now in being. She applied in 1839 for a pension, under the 3d section of the act of July 4, 1836, in right of the services of Knowles, she having again become a widow before the passage of the above law, which brought her within the provision of the act of 3d March, 1837. Mrs. Foot died a few days before the certificate of pension was issued to her, leaving a will by which she bequeathed the pension, and appointed her son, James Foot, executor.

The inquiry is, 1st. Does the pension go to her legatee, and is her executor entitled to receive it as her legal representative, for distribution according to the will? If not, 2d. Are the children of Knowles entitled to receive it in exclusion of those of her second husband, or is it legally payable to the children of both marriages, as the personal representatives of their mother?

I am of opinion that it does not belong to the executor, as the legal representative of Mrs. F. Pensions are *donations*, made in consideration of meritorious services, and as such may be accompanied by such limitations as it is the pleasure of the donor to impose. The whole system shows that the object of Congress was to provide the means of subsistence and comfort to the individual who rendered the service, or to those who are near to him; and hence they provided that it should not be assigned, pledged, or made subject to debts. The second section of the act of 2d March, 1829, expressly provides for the payment of any arrears which may be due to a revolutionary pensioner, at his death, to his widow, or, if she be dead, to his children; and the same provision, in substance, is made by the fourth section of the act of 7th June, 1832. So, in the first and second sections of the

law of 4th July, 1836, (under the third of which the pension in question was granted,) by which pensions may be granted to the widows and children of officers and soldiers, the same principle is incorporated. The ordinary line of distribution of decedents' personal estates is broken, and such direction given to the avails of the gift as would be most likely to benefit those who were dependent on the pensioner, or were of his blood. This is a leading feature in the system, and, taken in connexion with the absolute freedom of the pension from all power of transfer or liability for debt, seems to show conclusively that the executor can have no right to receive payment of the fund; for, to give it that direction, would be a virtual transfer of the pension, and appropriate it to Mrs. Foot's debts; or, if not necessary for that purpose, give the whole of it, by her will, to a person alien from Knowles, "the husband for whose services" (in the words of the law of 1837) she obtained the pension. In direct support of this view is the opinion of Mr. Attorney General Butler, of 24th October, 1836.

The second question is more difficult. The provisions of the several acts of Congress in relation to pensions, regarded as a whole, indicate very plainly the intention of Congress that the children of the pensioner should enjoy, after his widow, whatever money was due and undrawn at his death, or at the death of the widow, when he left one. It is true, the first section of the act of 4th July, 1836, contains the only provision, *in verbis*, for payment of fractional sums due at the death of the widow to the children of the pensioner; but the fourth section of the act of 7th June, 1832, directs payment of fractional sums due at his death to his widow; or, if there be none, to his children; and a similar provision will be found in the act of 2d March, 1829, and the second section of the act of 4th July, 1836. These provisions have always been construed liberally. For instance, by the law of July, 1836, (section 1,) a pension for five years is given to the widows of officers and soldiers; or, if there be no widow, to his child or children under sixteen years of age; and, if the widow die or marry during the five years, over to the child, &c. The Attorney General, on 3d August, 1836, decided that if the widow married before the passage of the law, the child or children might come in and receive the pension, the case being within the equity of the statute. The particular case in hand is under the third section of the law of 1836, which grants pensions to widows of revolutionary officers and soldiers, whose marriage took place during the last period of his service, during the time she may remain unmarried; that is, during her life, if she so long continues single. There is no provision for any arrears due at her death. In accordance with what I believe to have been the intention, I would, if I could, say that I thought the money due on the pension certificate should go to Knowles's children, in exclusion of those of Foot. Knowles was the meritorious cause of the bounty to his widow, who claims, as the law of 1837 expresses it, for his ser-

vices. But it is a gift to her. If there was no widow, under this particular section of the law, differing from other provisions, there could be no grant to the children of Knowles. It is to her alone the pension is given. It must be vested in her; otherwise, the money being undrawn, and the certificate even not issued while she lived, it would have lapsed into the treasury of the United States. To this point the opinion of the Attorney General of 13th April, 1837, is express, that it vested in her on the passage of the law, and was not, for that reason, defeated by her omission to apply for it, and "goes, on her death, to *her personal representatives.*" Those personal representatives are her children by Knowles and by Foot.

The executor is not entitled to receive the pension as the legal representative of the widow, for distribution, according to the will; nor does it belong to him in any manner. It must go to her children by Knowles and by Foot, as her personal representatives.

J. R. POINSETT.

[38.]

The failure to return to duty after captivity viewed as desertion.

PENSION OFFICE, August 31, 1840.

SIR: I have the honor to ask your opinion upon the following case: In April, 1776, Michael Mahoney, a native of Ireland, then residing in Frederick county, Maryland, enlisted into the 7th regiment of the Maryland line, and was taken prisoner on 22d August, 1776, in the battle on Staten Island. After a detention of several months (he estimates it at nine months) in the "sugar house" and "prison ship," he left the depot of prisoners, "by choice, to go to Cape Breton to work the coal mines there, with fourteen others. After reaching Cape Breton they were not permitted to leave the island till the close of the war. There was no military stationed there. He received no pay or wages for getting coal, &c. Provisions were regularly served out to the prisoners," &c. After the war, he continued to reside in Nova Scotia to the present time. As he voluntarily exchanged the situation of a prisoner of war for that of an employ   in the civil service of the enemy, he cannot claim for *captivity* during such employment.

But the question which I have the honor to submit is, whether it be not such an abandonment of his enlistment as to draw after it, like desertion, the forfeiture of all claims founded upon the merits of a *previous* service.

The claimant is awaiting your decision upon this point, and it would confer a great favor upon him to have the earliest attention of the department.

Hon. JOEL R. POINSETT.

J. L. EDWARDS.

The claimant having abandoned the service of the United States during the war, and not having fulfilled his engagement, is not entitled to a pension.

J. R. POINSETT.

[39.]

Pensions unclaimed for fourteen months payable at the Treasury Department.

PENSION OFFICE, *August 30, 1842.*

The act of the 6th April, 1838, which required that all pensions remaining unclaimed for eight months should be paid at the Treasury Department, has been repealed by the 3d section of the act of the 23d August, 1842, which is in the following words:

"Sec. 3. *And be it further enacted,* That so much of an act entitled 'An act directing the transfer of money remaining unclaimed by certain pensioners, and authorizing the payment of the same at the Treasury of the United States,' approved April sixth, eighteen hundred and thirty-eight, as requires pensions that may have remained unclaimed in the hands of pension agents for eight months to be returned to the treasury, be, and the same is hereby, repealed, and that the time within which such pensions shall be returned to the treasury, be, and the same is hereby, extended to fourteen months; subject to all the other restrictions and provisions contained in the said act."

For carrying into effect the provisions of the law above quoted, no new forms have been prescribed. The agents have been directed to pay all pensions except those unclaimed for fourteen months after they become due and payable. Pensions unclaimed for that length of time are payable at the treasury; and vouchers drawn up according to the usual forms, and sent to the Third Auditor, will be attended to.

If the pension be paid to an attorney, it is necessary that such attorney make oath as required by law, and in the form prescribed by the circular from the Second Comptroller's office of June 30, 1833, that the power to receive the pension was not given him by reason of any sale, transfer, or mortgage.

As no pension can be paid at the treasury under the act of August 23, 1842, unless the money has remained in the hands of a pension agent unclaimed for fourteen months after it became due and payable, whenever application shall be made to the accounting officers of the treasury for the payment of a pension, a part only of which has been due and payable for that term of time will be admitted and paid at the treasury, and the balance will be payable by the pension agent until that shall have remained unclaimed from such agent for the term of fourteen months after it became payable.

J. L. EDWARDS.

[40.]

Second marriage no bar to a claim under the act of July 7, 1838, if the claimant be a widow at the time of her application.

PENSION OFFICE, *November 14, 1842.*

SIR: I have the honor to enclose herewith the declaration of Mary Button, who claims a pension under the act of 7th July,

1838, and the act supplementary thereto of 23d August last, for the services of her first husband, Jonathan Hale, with a letter from Jesse Charlton, Esq., appealing from the decision of this office. Her claim was rejected on the ground that she was not a widow at the date of the passage of the act of 7th July, 1838.

The act of 7th July, 1838, it is admitted, required that a claimant should be, at the date of its passage, the widow of the officer or soldier who rendered the service. The act of 23d August last, as originally reported, consisted of two sections, viz: 1. Declaring that the marriage of the widow after the death of her husband, for whose services she claims, shall be no bar to the claim of such widow, "she being a widow at the time she makes application for a pension." 2d. Declaring that the widows of such officers and soldiers as *have died since the passage* of the acts of 4th July, 1836, and 7th July, 1838, and the widows of such as shall hereafter die, shall be entitled to pensions under those acts, respectively, they being otherwise entitled thereto, and widows at the time application for a pension is made.

It is apparent from the first section, which constitutes the new law, that its object was to place those widows of revolutionary men who had married a second time upon the same and no better footing, under the act of 7th July, 1838, than those who were originally embraced by its provisions, viz: widows of the soldiers who rendered the service. If the construction contended for be given to the clause, the benefit of the act of 7th July, 1838, would be extended to those who, claiming for the services of their first husbands, became the *widows* of the second subsequently to the passage of the act, and withheld from those who, having married revolutionary soldiers, became the widows of such soldiers subsequently to the passage of the act. If the words "she being a widow at the time she makes application for a pension" had not been introduced, the section would have accorded the pension which the military merit of the first husband might claim under the act of the 7th June, 1832, to the feme covert of a second marriage: and if this pension were allowed as claimed, it would be computed for five years from 4th March, 1836, to 4th March, 1841, during four years and six months of which she was not a widow.

This construction of the act of 23d August last is not only borne out by its phraseology, and the provisions of the original act, but the second section, which provided, *in totid-m verbis*, for such cases as the present, and was stricken out by the Senate.

Hon. JOHN C. SPENCER.

J. L. EDWARDS.

NOVEMBER 17, 1842.

I must differ from the Commissioner of Pensions in his construction of the act of August 23, 1842. The act of 1838 provided for those who were widows at the time of its passage; that is, it excluded those who were married at that time. Now, the act of 1842 declares that the marriage of a widow (at any time)

after the death of the soldier, shall not be a bar to her claim for a pension. It, therefore, in terms, repeals the provision of the act of 1838, referred to.

I do not perceive how this construction will "withhold from those who, having married revolutionary soldiers, became the widows of such soldiers subsequently to the passage of the act;" on the contrary, the construction I give embraces them, and it is the only one that will include them. I cannot doubt the meaning of the sections. The second clause, as reported, embraced a particular class, who were already provided for by the first section, and it was needless. I think the claimant is entitled to her pension.

J. C. SPENCER.

[41.]

Benefits of the joint resolution of August 16, 1842, extended to those widows only who were then living.

PENSION OFFICE, *February 4, 1843.*

SIR: In obedience to your orders, I have to submit the following report upon the appeal of Mr. Colton, in the cases of Elizabeth Wilcox, Betty Lacy, and Susannah Osborne. The above widows were allowed pensions under the act of 7th July, 1838, and as their husbands had drawn pensions to a date subsequently to the 4th of March, 1836, their pensions commenced the day the pensions of their respective husbands terminated. By the joint resolution of the 16th of August, a full five years' pension is accorded, under the act of 7th July, 1838, to all widows of revolutionary soldiers whose marriage took place before 1794, without regard to the pensions which their husbands may have received. The above widows died before the extension of the act by that resolution, and the claims of their children to the arrears due under that extension have been rejected, upon the ground that the claims were fully adjusted under existing laws in their lifetime; and that, having died before the extension of the act, no right was vested, by that resolution, in deceased widows, which the children may assert and enjoy. From that decision Mr. Colton makes his appeal.

Mr. Colton is mistaken in supposing that the widows of revolutionary men, who died subsequently to the passage of the act of the 7th July, 1838, have been allowed pensions before the passage of the joint resolution of the 16th of August last.

In the case of Abigail Tracy, deceased, the amount was allowed by the mistake of the clerk who examined the claim. In his anxiety to despatch a great deal of business, he overlooked the date of the widow's death.

Hon. JOHN C. SPENCER.

J. L. EDWARDS.

I concur in the construction given by the Commissioner of Pensions to the joint resolution of 16th August, 1842. That re-

solution, although negative in its terms, is affirmative in its operation, and removed an impediment which prevented widows, then living, from receiving pensions in cases where their husbands had died after 1832, and it could apply only to those then living: the pensions to widows being always intended for their own personal benefit.

FEBRUARY 6, 1843.

J. C. SPENCER.

[42.]

Surgeons, under act of 7th June, 1832, entitled to the highest rate of pension, according to length of service.

PENSION OFFICE, *March 15, 1843.*

SIR: The application of Mercy Richardson, to be allowed a pension of six hundred dollars per annum, under the act of 4th July, 1836, for the service of her late husband, as surgeon, has been examined and disallowed.

The rate of pension to which surgeons are entitled under the act of 7th June, 1832, presented a question of some difficulty, and was at one time established at six hundred dollars per annum; but at a subsequent time it was decided by the Attorney General that the proper allowance was four hundred and eighty dollars per annum. To that decision the practice of this office has uniformly adhered; and, upon a late appeal, it has again received the sanction of the Secretary of this department.

ALEXANDER RAY, Esq.

J. L. EDWARDS.

WAR DEPARTMENT, *November 14, 1843.*

Although the opinion of the Attorney General, referred to by the Commissioner of Pensions, had reference only to the cases of surgeons, it applied as well to others involving the same principles, such as those of Major Popham, Mr. Duponceau, and others, both of the staff and line, and of the staff only; and as in those cases the principle of that opinion has been departed from, and pensions have been granted according to the pay in the staff, those of surgeons should be placed upon the same footing. The increase of pension asked for in this case is therefore granted.

J. M. PORTER.

[43.]

Desertion forfeits all right to a pension.

PENSION OFFICE, *June 27, 1843.*

SIR: On the 1st of March last an act was passed granting to Mary Williams a pension equal to what her husband, Jacob Williams, would have been entitled for his revolutionary services, had he been living on the 7th June, 1832. It appears, from an examination of the muster rolls, that her husband deserted the

service in 1782, and never returned to the army. By that act he forfeited all claim to bounty land, pay, pension, and every gratuity whatever. If, therefore, he had been living on the 7th June, 1832, he would not have received any pension. The question is respectfully submitted, whether I shall issue a certificate of pension for your signature or not. It appears to me that the law cannot be executed, consistently with the uniform practice under the revolutionary pension laws.

Hon. JAMES M. PORTER.

J. L. EDWARDS.

WAR DEPARTMENT, *June 27, 1843.*

Concurring in the views taken by the Commissioner of Pensions, I do not think she can be placed on the pension roll.

J. M. PORTER.

[44.]

A widow may receive a pension for the service of two husbands, but is not entitled to two pensions for the same time.

PENSION OFFICE, *November 25, 1843.*

Sir : In the case of Catharine Hartshorn, deceased, referred to in the enclosed letter, I have the honor to inform you that she was pensioned under the act of July 7, 1838, and was not, therefore, entitled to a pension under the act of July 4, 1836. The Attorney General's opinion is, that no one can receive the benefit of both those laws. I would respectfully refer you to his opinion, which will be found on pages 1206 and 1207, published in executive document No. 123, House of Representatives, 20th Congress, 2d session.

Hon. JAMES M. PORTER.

J. L. EDWARDS.

WAR DEPARTMENT, *December 13, 1843.*

As determined by the Attorney General, two pensions at the same time cannot be allowed to the same individual; but if the services of Mrs. Hartshorn's first husband (Norris) are such as entitled her to a pension under the act of 1836, had she first applied under that act, it should be allowed—the amount she has received under the act of 1838, being considered as so much on account of the pension under the act of 1836, and to be deducted in paying that pension.

J. M. PORTER.

[45.]

Surgeons entitled to only infantry captain's pay, under act of 15th May, 1828.

PENSION OFFICE, *February 13, 1844.*

Sir : I herewith return the paper from Mr. Green, which was referred to this office.

The letter from the Secretary of the Treasury to the War De-

partment, in relation to the pensions of surgeons under the act of 1828, (a copy of which is enclosed,) will show why they were paid at no higher rate than four hundred and eighty dollars per annum by the Treasury Department.

The act of 1828 embraces the cases of those officers only who were promised half pay under the resolution of Congress of the 21st of October, 1780; and it furthermore declares that no officer shall be entitled to receive a larger sum than the full pay of a captain in the line. No staff officer, except a surgeon, for staff service merely, was ever entitled to half pay or commutation, and no officer but a surgeon, for staff service, was ever entitled to a pension under the law of 1828. The army commissioner, at the close of the war, adjusted the claims of the officers of the medical staff, and allowed them the same amount of commutation that was allowed to captains of infantry. The act of 1828 gave to each surviving officer who had received commutation the same rate per month at which he was paid his commutation. If some officers are allowed a higher pension, under the act of 1832, than they are entitled to under the law of 1828, it does not follow that surgeons can draw as much under one law as under the other. Under the law of 1828, a lieutenant, for his services as adjutant and lieutenant, receives only lieutenant's pay—three hundred and twenty dollars per annum; but under the law of 1832, if he served two years as adjutant, he receives four hundred and eighty dollars per annum.

The difference between the two acts is, that the act of 1828 allows for services in the line only, whereas the act of 1832 allows for staff service where the claimant performs such service.

The War Department, in fixing upon some rate of compensation, in settling the commutation claims of surgeons, rated them as captains of infantry. As such they were paid; and if the acts of the old Congress, which are referred to in the act of 1828, are to be considered any guide in settling claims under the law of 1828, then they cannot be paid more than what an infantry captain receives.

Hon. JAMES M. PORTER.

J. L. EDWARDS.

WAR DEPARTMENT, *February 17, 1844.*

The decision of the claims of the act of 1828 having been made long since, it will not be right to disturb them. The decision of the Commissioner of Pensions in Dr. Watrous's case is confirmed, and will govern analogous cases.

J. M. PORTER.

TREASURY DEPARTMENT, *October 22, 1834.**

SIR: In answer to the inquiry contained in Mr. Edwards's letter of the 17th instant, I have the honor to inform you that, by the

* This letter, so far, shows the rule of action when the act of the 15th May, 1826, was executed at the Treasury Department.

resolves of the old Congress, surgeons were promised "the half pay of a captain," and that in the settlement made with them under those resolves, at the close of the war, their half pay was reckoned at the half pay of a captain of infantry, and the certificates which were issued to them, under the resolves granting commutation in lieu of half pay, were for five years' full pay as captains of infantry.

In determining the amount to be allowed to surgeons claiming the benefits of the act of the 15th of May, 1828, the Department was guided by the construction which was found to have been practically given, and they were accordingly allowed the full pay of captains of infantry.

Hon. LEWIS CASS.

LEVI WOODBURY.

[46.]

Rules relative to the act of 30th April, 1844.

PENSION OFFICE, *May 1, 1844.*

SIR: I have the honor to enclose herewith a copy of the act of April 30th, 1844, making appropriations for the payment of pensions, &c., and respectfully ask your opinion and direction on the following points:

The law of July the 7th, 1838, and the amendatory act of August 23d, 1842, gave the widow a pension from the 4th of March, 1836, to the 4th of March, 1841, notwithstanding the husband might, at the same period, have drawn a pension; but the act of April, 1844, prohibits the widow from drawing a pension for the same period during which her husband received his pension. The following questions arise:

1. If the husband was a pensioner, and died at any time between the 4th March, 1836, and the 4th March, 1841, is not the widow entitled to that portion of the five years' pension which accrued between the day of his death, when his pension ceased, and the 4th of March, 1841?

2. If the husband died at any time between the 4th of March, 1841, and the 3d of March, 1843, is the widow entitled to the benefit of the law of March 3, 1843, which allows one year's pension to all those widows who were entitled to the benefits of the acts of July 7, 1838, and August 23, 1842?

3. Does not the act of April, 1844, operate on all claims filed in the office prior to the passage of the act, as well as to all subsequent cases?

J. L. EDWARDS.

Hon. WILLIAM WILKINS, *Secretary of War.*

The three questions numbered 1, 2, and 3, within presented to me, I answer in the affirmative.

WM. WILKINS.

[47.]

Rank of an officer dependant on his commission, and half pay dependant on his rank.

WAR DEPARTMENT, June 15, 1844.

The cases of Peter Moore and Samuel B. Green—appeals from the decisions of Col. Edwards, Commissioner of Pensions.

The decisions of those two cases turn upon the same documents.

Both officers belonged to Col. Crockett's Virginia regiment during the war of the Revolution.

Peter Moore has been recognised as having been a *lieutenant*, but it is alleged he was a *captain*.

Samuel B. Green is acknowledged to have been an ensign, but it is concluded he was a lieutenant.

Against those claims there have been decisions made by my predecessors in office. By these decisions I am bound. I can discover no new evidence to change, in any essential way, the characters of the two cases.

I have no doubt, after an inspection of the two reports—the one by Col. Crockett, and the other by the “board of officers”—that Mr. Moore was *entitled to be promoted* to a captaincy, and Mr. Green to a lieutenantcy, but they never were promoted. The amount of “half pay” depends on the *rank* of the officer, and that rank depends on the *commission*. I confess it would be otherwise, if the very ingenious argument of the Hon. Mr. Davis should prevail—that a military commission descends upon the *next in rank*, by *operation of law*, as land descends upon the heir on the death of the ancestor. In this way, the officer, instead of a commission, would have to carry about him the statute law of Virginia and the rules of descent of military commissions. The actual possession of the commission is the one essential thing; but the mere claim to it is a very different matter, and cannot be overlooked in the administration of our pension laws.

The documentary paper, the report of “a board of officers,” without date, and filed (without date, too,) by “Wm. H. Cabell, executor of Col. Read,” I am willing to consider as authentic.

It is no evidence of the *promotion* having been made, or that commissions had issued, or that Moore and Green ever performed the duties belonging to the rank they now claim. It affords evidence to the contrary; because it expressly declares the object of the board to have been to “examine into the claims of the officers,” &c. It recommends that “the regiment should be continued full to that number by promotion of the officers.” It in fact recommends the promotion then to be made, which should have been made before. But there is no evidence that they were then made; for this report, so far from being considered as final, and as making the promotions, is marked or endorsed “In council, April 4th, 1782, referred to the commissioner of war.” There this particular piece of documentary evidence ends, and the date of the reference, too, is after the disbanding of Crockett's regiment. There is no evidence that the recommendation of the board of officers

was ever carried out. The justice *intended* to be rendered to those officers they never obtained. Instead of a confirmation of the report, and the issuing of the commissions, the matter was "*referred* to the commissioner of war."

Now, let us examine the other document, the "list of officers of the regiment, as they now (then) stand on 22d December, 1781."

This list is arranged in columns, and carries out the promotions of the officers.

Upon this paper *Peter Moore* is marked in '76, and commences as a private, and is carried out as *supernumary ensign*; and *Samuel B. Green* is also carried out in the last column as a *supernumary ensign*. It cannot be argued that *this return of Colonel Crockett* does not undertake to give *promotions* of the officers named upon it; for, in many cases, it gives the promotions regularly marked in the columns. For instance, Colonel Crockett himself is marked "a private" in 1774, and his regular promotions carried out, and in the proper column he is stated to be a "lieutenant colonel." So of George Walls, William Cherry, Benjamin Kenley, John Kerney, &c. This last person commences as a private, and his promotions are carried out to a *captaincy*. Now, had *Moore* and *Green* been actually promoted, their advancement in rank would, like the others, have been carried out in the columns of this list.

Further. At the foot of this list there is a memorandum, dated on "June 17, 1782," signed by Colonel Crockett, which says "the above mentioned subaltern officers were all *entitled to promotion*, agreeably to an arrangement lodged in the war office at Richmond." This "arrangement" must be the report of the "board of officers," to which I have alluded, which did *not make* the promotions, but merely stated "the *claims* to promotions," which were *referred* to the war office.

This "arrangement," or report of the board of officers, is without date; but I presume it must have been made at some time between the "2d September, 1781," the last date mentioned on it, and the 17th of June, 1782, the date of Colonel Crockett's memorandum at the foot of his return.

It appears upon the face of Colonel Crockett's list of officers of his regiment, that the State of Virginia, like all other States, pursued the uniform practice of issuing *commissions* to her officers; and, of course, whatever may have been the *right* or admitted *claim* of the officer to higher promotion, in the absence of the commission, we are to presume that the admitted claim was never satisfied, and the rank never bestowed. The early laws of Virginia, referred to by the friends of the claimants, do not dispense with the *commission*. They merely declare who shall be *entitled* to promotion—how vacancies shall be filled; that there shall be regular advancement, &c., &c. The *rule* of promotion cannot stand in the place of the *actual* promotions, &c. There might be very many reasons and obstacles in the way of carrying

out and executing the rule, and granting the commission and increased rank.

The State of Virginia appears to have taken the *claims* of her two citizens to promotion as the actual promotion itself, and adjusted the half pay upon equitable and liberal considerations. By such considerations, I regret to be obliged to say, we cannot be governed. In the adjustment of the claim, we are compelled to be guided by the actual *commissioned rank* of the officer, and not by the consideration that he was "entitled" to a rank which his State never bestowed upon him.

I am bound by the previous decisions of the department, which must stand in affirmance of the judgment of the Pension bureau.
WM. WILKINS.

[48.]

Act of June 17, 1844, a continuation of act of 3d March, 1843.

WAR OFFICE, June 20, 1844.

My construction of the act of Congress of June 17, 1844, entitled "An act to continue the pensions of certain widows," is such, that, in the case of the death of a widow between the 4th of March, 1844, and the 17th of June, 1844, her children will be entitled to the benefit of the law of the 17th of June, 1844. The effect of this act is to continue, without intermission, the law of 1843.

WM. WILKINS.

[49.]

Rules of evidence under the act of June 17, 1844.

PENSION OFFICE, June 25, 1844.

In order to carry into effect the act of June 17, 1844, entitled "An act to continue the pensions of certain widows," those persons who have been pensioned under the law of March 3, 1843, will not be required to send a new declaration to this office. They will merely apply to the agent for paying pensions at the place where they have heretofore been paid, and comply with the instructions from the office of the Second Comptroller, a copy of which is subjoined.

Many persons, however, will be entitled to pensions under the act of June 17, 1844, who have not been, or cannot be, pensioned under the acts of July 7, 1838, and March 3, 1843, by reason of the proviso in the act of April 30, 1844, entitled "An act making appropriations for the payment of revolutionary and other pensioners of the United States for the fiscal year ending on the 30th June, one thousand eight hundred and forty-five," which declares "that no pension shall be hereafter granted to a widow for the same time that her husband received one." In all cases in which

the husband was a pensioner, the widow's pension will commence on the day of his death, unless he died before the 4th of March, 1836, or between the 4th of March, 1841, and the 4th of March, 1843. If he died between the two last dates, the widow's pension will begin on the 4th of March, 1843; and if he died previous to March 4, 1836, the widow will be entitled to the whole of the pension allowed under the acts of 1839, 1843, and 1844, as if the act of April, 1844, had not passed.

No person can be pensioned under either of the aforementioned acts, who has not produced such proof as the regulations point out for claimants under the law of July 7, 1839; and every applicant will be careful in her declaration to set forth the particular law under which she claims.

J. L. EDWARDS.

[50.]

A pensioner is not excluded from half pay under the act of July 5, 1832.

DEPARTMENT OF WAR, *July 6, 1844.*

SIR: Upon a full examination of the cases of Captain Thomas Minor's and Lieutenant Elliot Rucker's legal representatives, for half pay as officers in the Virginia State line, under the act of 5th July, 1832, and the laws affecting the same, I have come to the decision that, in the adjustment of claims under said act of 5th July, 1832, no deductions should be made for any sums received by officers (or their widows or children) under the act of 15th May, 1828, or under the act of 7th June, 1832. It is my opinion, therefore, that the certificate issued on the 20th April last, in favor of the administrator of Elliot Rucker, deceased, which was cancelled, should be re-issued, and the amount therein certified to be due should be allowed; and I authorize you to issue a certificate accordingly.

The law of the 5th July, 1832, makes no allusion whatever to any pension, nor does it exclude from its provisions any one who may be in the receipt of a pension from the United States.

To the COMMISSIONER OF PENSIONS.

WM. WILKINS.

[51.]

The pension due a widow can in no case go to her executor or administrator, if there be a child or children.

WAR DEPARTMENT, *July 18, 1844.*

The policy of the act of Congress of the 7th of June, 1832, and of other pension laws, appears to be to keep from creditors, and from the seizure of the law, in any way, the gratuities or pensions conferred upon revolutionary officers and soldiers. The office practice of this department adopts and pursues the same policy.

The 4th section of the act of June 7, 1832, provides *especially* for the particular case therein stated. It goes no further than to mention the *particular instance* in which the widow is to receive a *fraction* of a semi-annual payment.

The law makes no such provision, nor any provision at all for the instance when the revolutionary pensioner dies, having neglected or omitted to claim and receive his pension for one full period of six months, or for a longer time, say for two years. This case is not met by the opinion of Mr. Attorney General Butler, given on the 28th of February, 1834. He confines that opinion to the question of right to the *fractions* of the pension, provided for by the 4th section of the law of 1832.

Captain Crawford, having received his pension under the act of 1828, died 6th of March, 1833, and left a widow and two children. His last semi-annual payment fell due 4th of March, 1833. In this case the widow was entitled to the proportionate amount of pay "which accrued" for the two days "between the last preceding semi-annual pay days" and the death of her husband.

But Mr. Crawford had omitted to claim—because his claim was a doubtful one—his pension for two years previous to his death, as a staff officer, under the act of June, 1832, to which he was entitled by the construction given to the law by Mr. Secretary Spencer. These two full years were in arrear, besides the trifling *fraction* which was due and payable to his widow.

Mrs. Crawford, the widow, died on the 21st of May, 1839, never having claimed the pension omitted to have attracted the attention of her husband. His two children still survive.

Now, the question involved is, to whom is the two years' unclaimed pension payable?

In the paper submitted to me, dated the first of May, 1844, by Mr. Edwards, he states the practice to be to pay the amount to the executors or administrators of the widow, and not the children; and that this practice is founded on the opinion of Mr. Butler, already referred to. I do not think that opinion justifies the practice. It is an opinion having reference to the particular case of a *fraction* of pension, as provided for in the 4th section of the law of 1832. It does not decide or give a rule in the present case; nor do I know that this particular case has been decided by any professional opinion.

The present sum due, not being a *fraction*, and never having been claimed by the widow in her life, should, in my opinion, go to the children of the revolutionary officers—the children of the man who performed the patriotic services—and not the executors or administrators of the widow. This would, by legal process or proceedings, give the gratuity to her creditors, put it into the hands of strangers, and take it out of the family of the revolutionary patriot.

To show how unjust it would be to the children of a revolutionary officer to pay the arrears of his pension, in the present

instance, to the executors or administrators of his second wife, let us look at it in one or two aspects.

In giving the arrears of the pension as *assets* of her estate, you apply them to the payment of her debts, whilst they are admitted not to be liable for the payment of the debts of the pensioner himself; and if she has no debts to pay, these *assets* would be distributed among *her children*, to the exclusion of those of her husband, who rendered the public services, the very consideration of his country's donation.

Again: Suppose the widow never had borne children to the revolutionary pensioner, but had given children to another husband; if the arrears are made assets in the hands of her executors or administrators, they would then pass and be paid over to the heirs of a stranger, probably the inhabitant of a foreign country during our revolutionary contest.

But all question about the arrears of pensions seems to be explicitly disposed of by Congress, in the enactment to be found in the 2d section of the act of 2d March, 1829. It is therein expressly declared that, in case of the death of the widow, "the arrears of pension due to the pensioner at the time of his death" shall be paid to his children, and those arrears can only go into the hands of executors or administrators in the cases where there are neither widow nor children.

To Mr. EDWARDS.

WM. WILKINS.

[52.]

Increase of pension, on account of increased disability, to commence from the date of increased disability.

WAR DEPARTMENT, *August 28, 1845.*

The practice of the department to commence the increase of an invalid pension on the day when proof is made of an increase of disability is very proper, and is in conformity with the principles laid down in the invalid pension laws; and the reason of the law is, that it is presumed in all cases that the claimant will perfect his proof as soon as his disability is so increased as to render it proper to ask for an augmentation of his stipend. But in a case where it is very obvious that the pensioner has suffered an amputation of a limb from a wound received in battle, and has, by reason of his helpless condition, arising from the loss of his limb, delayed his application, it is only just, and entirely consistent with the humane policy of the laws and a liberal construction of the same, that he should receive the pension, at the increased rate, from the time when the amputation took place. Let this be the rule, therefore, in future, in every case where a pensioner has, after being pensioned, suffered the loss of a limb on account of a wound while in the line of his duty as a soldier, receive the benefit of his increased pension from the time when the amputation was made.

W. L. MARCY.

[53.]

Decision of the Secretary of War in the case of Elizabeth Cragie, deceased.

WAR DEPARTMENT, *April 21, 1845.*

The law of 1840, chapter 17th, authorizes the payment to administrators and executors only in cases where there are children or a child; and then only to them as trustees, not as executors or administrators, for the purpose of being assets in their hands. There being no child or children of the deceased, in this case, the payment cannot be made to an executor.

W. L. MARCY.

[54.]

A soldier is always in the line of his duty, except under arrest, in confinement, on furlough, or absent without leave.

DEPARTMENT OF THE INTERIOR, *April 10, 1849.*

SIR: Your letter of the 30th ultimo, to the Secretary of War, in relation to the construction to be placed upon the joint resolution relative to evidence in applications for pensions of the 3d ultimo, has been referred to this department; and, in reply to your inquiry, have to state that it is my opinion, as a general rule, that the soldier is to be regarded as being always in the "line of his duty," when he is not under arrest, in confinement, on furlough, or absent without leave, although there may be peculiar circumstances in particular cases which should modify this construction.

T. EWING, *Secretary.**

Dr. H. L. HEISKILL, *Acting Surgeon General.*

[55.]

Bounty land warrant fraudulently obtained does not invalidate the rightful claim.

DEPARTMENT OF THE INTERIOR, *May 16, 1849.*

SIR: In the case of Robert Ambrose, who claims bounty land as heir-at-law of Philip S. Ambrose, a soldier of the United States army, killed in Mexico, I am of opinion that his claim is valid under the law. The fact that the widow of *George Ambrose* fraudulently obtained the warrant should not prejudice the claim of the person legally entitled. It would be palpably unjust that innocent persons should suffer from the laches or neglect of the Government or its agents. I herewith return the papers in both cases.

COMMISSIONER OF PENSIONS.

T. EWING.

* The Pension Office was transferred from the War Department to the Department the Interior, on the establishment of that Department.

[56.]

An enlistment under chronic disease is fraudulent, and invalidates a claim to bounty land or pension.

DEPARTMENT OF INTERIOR, *June 2, 1849.*

In case of Henry Brand's application for bounty land under act of 11th February, 1847, the discharge has the word "honorable" erased, and the surgeon's certificate shows chronic epilepsy of a date anterior to his enlistment. There was imposition upon Government. He is not entitled.

T. EWING.

[57.]

The non-compliance with a rule of office not made public, should not defeat the right of a claimant.

DEPARTMENT OF INTERIOR, *June 11, 1849.*

SIR: In the case of Marianna Dilty, an applicant for a pension, it appears that her affidavit was taken before a justice of the county court of White county, Tennessee, which is a court of record; this is a compliance with the regulations of the 9th July, 1836, and is considered sufficient.

I understand that it has been the *practice* of the office to require that the oath be recorded in the court of which the justice is a member. There being, however, no regulation requiring it, and the practice never having been made public, I do not think it right to hold the applicant to a conformity with an unknown practice, existing merely in the knowledge of the officers of the bureau. I consider the application sufficient without such registry.

COMMISSIONER OF PENSIONS.

T. EWING.

[58.]

Opinions of Attorneys General advisory only, not appellate.

DEPARTMENT OF INTERIOR, *June 28, 1849.*

The opinions of the Attorneys General is asked, by the heads of departments, to aid them in their official duties, but no appeal lies to him to revise or affirm what they had decided.

J. L. EDWARDS, Esq.

T. EWING.

[59.]

The official acts of a justice of the peace in Virginia are to be accredited as of a member of a court of record.

DEPARTMENT OF INTERIOR, *July 13, 1849.*

A declaration for pension, before a justice of the peace in Virginia, is in compliance with regulations. A justice of the peace in Virginia is a judge or justice of a court of record.

T. EWING.

[60.]

Components of the army are enlisted and borne on the muster rolls; mechanics employed but not enrolled are not components of the army.

DEPARTMENT OF INTERIOR, *July 18, 1849.*

It is not sufficient that a man should be employed in a mechanical occupation by the Government to make him an artificer of the army.

The law (act June 7, 1832) does not contemplate such persons as these; but those only who formed a component part of the army, and were not only *mechanics*, but were *enlisted* also as *soldiers*.
T. EWING.

[61.]

The want of record of marriage, or the inability to obtain that evidence from the record, would justify the resort to affidavits to establish the marriage.

DEPARTMENT OF THE INTERIOR, *August 1, 1849.*

SIR: In the case of Abigail Williams, (the papers of which are herewith returned,) I am of opinion that the claim should be allowed, provided that additional evidence is produced to show, either—1st. That the records of the town where the marriage was celebrated, contained no evidence of the marriage; or, 2d. That the parties have made every possible effort to obtain such evidence and have failed. The statement of Mr. Thrall, under oath, that he has written on several occasions to the town clerk, and has received no answer, might be sufficient under the circumstances to permit the introduction of parol testimony; and, in such a state of facts, I should deem the marriage sufficiently established by the affidavits now on file.

COMMISSIONER OF PENSIONS.

T. EWING.

[62.]

A certificate of marriage by a "respectable resident," in the absence of conflicting testimony, is sufficient to establish the marriage.

DEPARTMENT OF THE INTERIOR, *August 1, 1849.*

SIR: I have examined the papers in the case of Mary Lafoy, deceased, the widow of Jacob White, and am of opinion that the evidence of her marriage is sufficient. In many instances a very strict compliance with the rules of the department should not be required; and it seems to me that a "respectable resident" of Virginia should be considered a "credible witness," in the absence of conflicting testimony. Of course, before a certificate can be issued, evidence must be adduced showing the number and names of the children of the deceased.

COMMISSIONER OF PENSIONS.

T. EWING.

[63.]

No claim for a pension shall be taken up out of its order.

DEPARTMENT OF THE INTERIOR, *August 10, 1849.*

Under a rule of the late administration, claims for pensions prepared by members of Congress were allowed to take precedence of all others, but directions have since been given that no claim shall be taken up out of its order.

T. EWING.

[64.]

Judicial decision (respecting the term of an enlistment) of more weight than the military rolls.

DEPARTMENT OF THE INTERIOR, *August 18, 1849.*

In case of James Bernard, an applicant under act of February 11, 1847, the claimant alleges that he enlisted "during the war," and served until its close, and was honorably discharged.

The army rolls show an *enlistment for five years*. After termination of war he was discharged upon writ of habeas corpus, upon the ground that he enlisted "during the war." This is a *judicial decision*, and of much more weight than the *army rolls*, and should be *conclusive* unless *fraud* be shown.

T. EWING.

[65.]

Where the terms of the law are specific, clear, and well defined, they cannot be extended by construction even to cover cases of equity.

DEPARTMENT OF THE INTERIOR, *August 24, 1849.*

SIR: In the case of Colonel James Monroe, deceased, brought before the department on an appeal from the decision of the Commissioner of Pensions, his executor claims half pay for life, under the act of July 5, 1832. The cases in which half pay is to be allowed are particularly enumerated in this act. This case does not fall within the enumeration, and no rule of construction will warrant the department in extending the action of the law beyond its well defined limits. When there is an attempt to cover a whole class of cases by general language, and the legislature, through defect of language, obviously falls short of its purpose, courts will extend the law by construction so as to meet the intent.

But whereas, in this case, the law particularises where the cases to be embraced are specially set down, its provisions cannot be extended by construction.

This is a case of strong equity. Colonel Monroe served his country as long and as faithfully as if he had remained in the

regular army; and, as far as we can now judge, more efficiently. But the claim must be rejected for the reasons above stated.

The decision of the Commissioner of Pension is therefore affirmed.

R. G. SCOTT, Esq.

T. EWING.

[66.]

Questions on claims that have been adjudicated and confirmed by appeal, must be considered as settled and finally disposed of.

DEPARTMENT OF THE INTERIOR, *August 25, 1849.*

SIR: In the case of the late Lieutenant John Marston, brought before the department by your letter of yesterday, it appears that it has already been decided by the Commissioner of Pensions on an appeal taken to the Secretary of War, and the decision of the Commissioner confirmed by that officer; a revision is now asked for, not upon a recent decision, but after a lapse of many years. The rules of the department forbid the re-examination asked for. These questions, like all others of a judicial character, must at some point be considered as settled and terminated.

R. G. SCOTT, Esq.

T. EWING.

[67.]

Certificates to accounting officers of the treasury for payment of \$100 in lieu of bounty land in behalf of widows and children, must be accompanied with evidence that the children are minors, and have or have not guardians legally appointed.

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE, *Sept. 10, 1849.*

SIR: Your certificate No. 67, countersigned by the Commissioner of Pensions, in behalf of Ann Jane Allen, widow, and Margaret Ann Allen and Eliza Jane Allen, children and heirs-at-law, of George Allen, deceased, late a private, &c., for \$100 in lieu of 160 acres of bounty land issued pursuant to the 9th section of the act of Congress of 11th February, 1847, has been received, but there is no certificate, paper, or evidence accompanying it to show whether Margaret Ann Allen and Eliza Jane Allen are adults or minors, and if minors, nothing to show whether they have or have not a guardian legally appointed in accordance with said section of the statute.

I cannot act in this and other similar cases without some evidence on these points. If the Commissioner of Pensions would certify that legal evidence was on file in his office of the fact that the children are minors, or that some person (named) is the legally appointed guardian, it would be sufficient. Such evidence is necessary to prevent payment to the wrong person, and guard the treasury from a legal claim for payment the second time. Will you please to direct the Commissioner of Pensions to furnish to this office the necessary evidence in this and all similar cases?

To Hon. T. EWING.

ELISHA WHITTLESEY.

[68.]

The letters of administration should be taken out at the place of domicile of the deceased, and any change of domicile since his performance of the service claimed by his representatives should be proved to remove all doubt of personal identity of the deceased.

DEPARTMENT OF THE INTERIOR, *September 12, 1849.*

SIR: In the claim of the administrator of Mary Barbee, I am of opinion that the letters of administration should be taken out at the place of domicile of the deceased.

This is not only the course legally to be pursued, but is eminently proper in the class of cases to which this belongs, as any other would subject the department to liability to fraud and imposture. Of course no imputation of this kind is expressed of the present case, but the rule is one, the observance of which should be enforced in all cases.

In addition to the letter of administration taken out at the place of the last domicile, there must be strict proof that the person so represented was the same whose husband performed this service or drew the pension. If the place of her or his residence was changed after he performed the service or died, being a pensioner, that must also be proved, so as to leave no doubt as to personal identity. The papers are herewith returned.

To the COMMISSIONER OF PENSIONS.

T. EWING.

[69.]

The General Land Office is not responsible for the issues by the Pension Office of duplicate certificates or warrants for land patents; but will abstain from issuing patents on the original certificates, if so requested, in time to stop their issue.

GENERAL LAND OFFICE, *September 13, 1849.*

SIR: In reply to your letter of the 10th instant, proposing to issue a duplicate certificate or land warrant No. 53,214, in favor of Charles H. Hooper, provided you are assured that no patent will be issued upon the original, I have to state that in this and all similar cases, if the Commissioner of Pensions decides to issue duplicate certificates, and requests this office not to issue patents upon the originals, his request will be complied with; but that this office will not be held responsible in any way in reference to the issue of duplicates.

J. BUTTERFIELD.

To J. L. EDWARDS, Esq.

[70.]

Papers on file in one public office, necessary to establish claims before another public office, may be examined and copied by the latter, to do justice to the claimant.

DEPARTMENT OF THE INTERIOR, *October 12, 1849.*

SIR: I return herewith the papers which you enclosed to the

Department in a letter dated the 5th ult., relative to the claim of Henry H. Richardson to bounty land. It appears that all the papers necessary to establish the claim are on file in the office of the Second Auditor of the Treasury. As those papers have been surrendered to the Government and are in its possession, they are open to the inspection and examination of all Government officers; and I am therefore of opinion that it is the duty of the Pension Office to procure the originals or certified copies thereof, so far as they are necessary to the action of that office, in order that full justice may be extended to the claimant.

COMMISSIONER OF PENSIONS.

T. EWING.

[71.]

Although a soldier be not mustered into service with the rest of his company, if the term of his service be stated when he is finally mustered out, and discharged, this shall be conclusive.

DEPARTMENT OF THE INTERIOR, *November 12, 1849.*

SIR: I herewith return the papers in the case of Jesse E. Davis, and have to inform you that I am of the opinion that he should be allowed land bounty under the act of February 11th, 1847.

Although he was not mustered into service at the time his company was, yet at the final muster of the company out of service, on the 8th of August, 1846, he is borne on the rolls, as having served from May 14th to August 5th, 1846, and regularly mustered out of service.

J. L. EDWARDS. Esq.

T. EWING.

[72.]

Interest upon interest cannot be allowed in the settlement of claims before the Pension Office.

DEPARTMENT OF THE INTERIOR, *January 7, 1850.*

SIR: The certificate signed by you in the case of Ann Hubbard, formerly Ann Barron, dated this day, and sent down for my written approval, is herewith returned without it.

You have been heretofore advised that, in the settlement of such claims, interest could not be allowed upon interest; and I now have to request that those instructions may be adhered to by you in this and all similar cases.

JAMES L. EDWARDS, Esq.

T. EWING.

[73.]

Death by drowning, in the line of duty in the naval service.

DEPARTMENT OF THE INTERIOR, *February 19, 1850.*

SIR: I herewith return the papers in the case of Mrs. Joanna P. Dickenson, widow of John Dickenson, deceased, who was a

carpenter in the United States navy; and I am of opinion that his death was caused by drowning while he was in the line of his duty and in the service.

J. L. EDWARDS, Esq.

T. EWING.

[74.]

If a certificate for the location of bounty land, forwarded by mail or otherwise to the claimant, be lost or mislaid in its transmission, a duplicate may be issued after reasonable notice of such loss in the public papers.

DEPARTMENT OF THE INTERIOR, *February 25, 1850.*

SIR: Enclosed you will receive a letter from the honorable D. Wallace, of the House of Representatives, dated the 20th instant, on the subject of his application for a duplicate certificate for the location of bounty land warrant No. 62,444, issued under the act of February 11, 1847, in favor of Captain William S. Morgan, the father and heir-at-law of Michael H. Morgan, deceased, late a soldier in company A, 1st regiment United States infantry.

From Mr. Wallace's letter it would seem that said certificate was mailed to the address of Captain William S. Morgan, at Gowensville, Greenville district of South Carolina; that satisfactory proof has recently been produced, showing that it never reached his hands; and that, upon his application to you for a duplicate, it has been refused unless proof is submitted, satisfactory to the department, that the original certificate has been actually destroyed.

The requirement is, in my opinion, unreasonable, as it is not likely the party would be able to prove the loss or destruction of a paper which he never saw, or at any time controlled.

When the fact that a certificate has not reached the hands of a party entitled to receive it, and to whom it was sent, is discovered in time to enter a caveat in the General Land Office, and thereby prevent the issuing of a patent to a fraudulent claimant, and due proof of the fact is produced, the party should be required to give public notice of the facts of the case once a week for six successive weeks, in some newspaper of general circulation, published at or nearest the place where the certificate was directed; that at the expiration of a specified time, he shall demand from the Commissioner of Pensions a duplicate of said certificate, which should be minutely described, in order to guard innocent persons against the purchase of the one first issued. And upon the production of a printed copy of said notice, with satisfactory evidence of its due publication, the party should be entitled to a duplicate certificate.

The mere possession by an individual of a certificate is not sufficient evidence of his right to dispose of it; and any person purchasing said certificate does it at his own risk; and, should the missing certificate in the present case have been stolen or

otherwise improperly obtained, the Government would meet with no loss or embarrassment on account of the issuance of the duplicate certificate to the rightful claimant, as the proper recourse of the holder of the certificate would be against the vender and not against the Government of the United States, whose duty it is to satisfy the claim of the party actually entitled by law to its bounty.

You are requested, in all cases similar to the present, to act in accordance with the views herein expressed, and at once to communicate with Mr. Wallace accordingly.

To J. L. EDWARDS, Esq.

T. EWING.

[75.]

Evidence by a private individual in proof of a wound received in the naval service may be satisfactory, if there be no officer who was in a situation to know, and can certify the fact.

DEPARTMENT OF INTERIOR, *February 27, 1848.*

SIR: I herewith return the papers in the case of John Jones, who was a seaman in the United States navy; and I am of the opinion that the evidence of a private individual should be received to prove the fact of a wound received in the service, when there was no officer in a situation to certify the fact, or none living who was in a situation to know the fact.

To J. L. EDWARDS, Esq.

T. EWING.

[76.]

The death of a soldier after having fulfilled his engagement in the Mexican war, but before receiving his discharge, shall not invalidate his claim to bounty land under the act of 11th February, 1847.

DEPARTMENT OF INTERIOR, *February 28, 1850.*

SIR: I have examined the papers in the case of John F. Talbert deceased, who was a private in the company of Captain Conner, of the Texas mounted volunteers.

It appears that the act of March 16, 1802, gives a pension to the soldier "who shall be disabled by wounds, or otherwise, while in the line of his duty in public service." The act of February 11, 1847, giving bounty land to soldiers, does not follow the language of the above act. It gives the bounty land to soldiers who having served to the end of the war, shall receive an honorable discharge, or who may be discharged in consequence of wounds received "in the course of such service, or to the heirs of such as shall have been killed, or died of wounds received, or sickness incurred *in the course of such service*," omitting the restriction words "*in the line of his duty*."

This change of phraseology cannot be presumed to be accidental. It was doubtless intended to save all inquiry as to the manner in which wounds were received, diseases contracted, or death occa-

sioned, provided it was in the course of the service—that is, while the soldier was in the service and subject to duty. This construction is the more reasonable as it for the enlistment and service, and not for the wounds, disease, or death that the bounty is given. The soldier undertook on his part to serve to the end of the war, if he were able to do so, and the Government undertook to give him the bounty land if he so served, and if he became unable to serve by reason of wounds received, disease incurred, or if he shall be killed in the course of his service. This soldier had served through the war; he had earned his land, was waiting for his discharge when he was killed in an affray. His death rendered his discharge impossible and it is a substitute for it. His heirs on full proof are entitled to the bounty land.

J. L. EDWARDS, Esq.

T. EWING.

[77.]

The arrear of pension due to a pensioner at his death, is different from arrear of pension that had never been claimed before the death of him or her entitled to it; in the latter case the arrear must go to his or her personal representatives.

DEPARTMENT OF INTERIOR, *March 5, 1850,*

SIR: I herewith return the papers in the case of Mrs. Elizabeth Thom, widow of Nathaniel Thom, deceased, and I am of the opinion that the act of June 19, 1840, in its terms applies to "*Pensioners*," which means persons receiving pensions, not those who can make out a case entitling them to receive pensions, but who have not done it. They are not "*Pensioners*," though they may become so. This act regards the actual pensioner only, and provides for the payment of so much of his pension as may have accrued and remained unpaid at the time of his death.

It applies also, in its very terms, not to those who have died prior to its passage, but to the future, those that "*shall die*;" such is the language, and such the clear intent of the act. It does not apply to a case like that of Elizabeth Thom who was never in her life a "*Pensioner*," and who died prior to the passage of the act. This case must be governed by the law as it stood prior to the 19th June, 1840.

If there be no provision of law directing to whom the pension shall be paid, in case of the death of the person entitled, it must by the common law go to his or her personal representatives.

J. L. EDWARDS, Esq.

T. EWING.

[78.]

A soldier having received a discharge from service in the Mexican war, for alledged sickness incurred before the expiration of his term of enlistment, but without the statement of the cause in his discharge, may prove it by credible witnesses, other than commissioned officers, if these cannot be found.

DEPARTMENT OF THE INTERIOR, *March 9, 1850.*

SIR: I herewith return the papers in the case of Elijah A. Pey-

ton, a private of Captain Crump's company, 1st regiment Mississippi volunteers, who claims land bounty under the act of February 11th, 1847. The only question in this case is, whether a soldier who is honorably discharged, and neither the discharge nor the rolls showing for what cause he was discharged, is entitled to bounty land, without proving that he was discharged in consequence of wounds received or diseases contracted in the service?

The claimant was discharged at Monterey by General Taylor, but no cause for his being discharged is assigned in his certificate of discharge. The rolls show that he was "discharged by order of General Taylor."

He has made an affidavit in which he states that he was discharged in consequence of sickness incurred in the service. It appears to me that inasmuch as there is no record proof of the fact, he should prove it by other testimony than his own affidavit. He has been advised by the Pension Office, that if he would prove by a commissioned officer that he was discharged in consequence of disease contracted in the service his claim would be allowed. He swears that he has made diligent search for his commissioned officers, and is unable to ascertain the residences of either of them.

I am therefore of the opinion that the evidence now on file should be held insufficient to establish the claim, but that he should be informed that the facts necessary to make out the case may be proved by credible persons though not commissioned officers.

T. EWING.

To J. L. EDWARDS, Esq.

ADJUTANT GENERAL'S OFFICE, *March 4, 1850.*

SIR: In reply to your inquiry of the 28th February, in regard to the discharge of Elijah A. Peyton, private from company H, 1st regiment Mississippi volunteers, viz: whether "a soldier could according to the course of things in the army at that time have been honorably discharged except for the causes named in the Statute, such as *sickness, wounds*, or some meritorious service?" I have respectfully to inform you that discharges were sometimes given for urgent private reasons, or to minors and others on the application of their friends, and in all such cases the discharges were considered as "*honorable*" unless forfeited by some crime or misconduct, though the soldier having been released from his agreement before the expiration of his service for his own private benefit was not considered as entitled to the bounty land or three months extra pay. I return the papers in the case.

Hon. T. EWING.

R. JONES.

[79.]

Under the act of 5th July, 1832, the same individual may receive half pay for life as ensign in the Virginia State line, and half pay for life as a supernumerary paymaster in the same State line.

DEPARTMENT OF THE INTERIOR, *March 14, 1850.*

SIR: I herewith return the papers in case of the administrator of Robert Boush, deceased, who was an ensign and paymaster in the Virginia State line. It appears that he has received half pay for life as an ensign, under the act of July 5, 1832, and I am of the opinion that he should also be allowed half pay for life under the same act as a paymaster, on the ground that the officer became a supernumerary as paymaster, though he served to the end of the war as an ensign.

T. EWING.

To J. L. EDWARDS, Esq.

[80.]

A warrant for land bounty fraudulently procured to be issued (or issued by mistake) to a wrong person, does not invalidate the claim of the actual soldier, his widow, or heirs.

DEPARTMENT OF THE INTERIOR, *March 16, 1850.*

SIR: In answer to your letter of the 2d instant, in which you submit the following statement for my consideration, viz: "Upon the usual evidence of discharge of Joseph Redding, a private of company H, in the 16th regiment U. S. infantry, accompanied by an affidavit of identity, executed at New Orleans on the 26th of April, 1848, and purporting to have been subscribed and sworn to by Joseph Redding, a warrant for 160 acres of land, numbered 16,267, was issued in his name on the 18th May, 1848, and the certificate transmitted through the General Land Office to the Hon. J. D. Cummins, of the House of Representatives, *through whom* the papers had been presented. Application for land and pension was subsequently filed on the part of the children of the above named soldier, who is officially reported to have died on the 8th of February, 1848, at Camargo, Mexico, and who consequently could not have made in April following the affidavit purporting to be his. In view of the fraud committed, I should have had no hesitation in cancelling the warrants, but for the fact that a patent has issued in the case, bearing date December 1st, 1848, as I am officially informed by the Commissioner of the General Land Office, under date of yesterday. I am of the opinion that the issuance of a warrant to a wrong person under a forged certificate does not satisfy the just claim of the actual soldier, his widow or heir.

In this case you will issue a warrant to the person entitled, and be very careful in scrutinizing claims which come from the quarter from which you have received these and other forged papers. Measures also should be taken, if any be practicable, to detect and punish the criminals.

J. L. EDWARDS, Esq.

T. EWING.

[81.]

A duplicate certificate for bounty land issued in lieu of one that has been lost, should be in favor of the party to whom the original was issued, and be delivered to the legally accredited assignee.

DEPARTMENT OF THE INTERIOR, *March 23, 1850.*

SIR: In reply to the inquiry contained in your letter of the 21st instant, I have the honor to state that the instructions from this department, dated the 25th ultimo, "are intended to apply to cases where the certificates, after being assigned, have been lost in their transmission by mail from one place to another."

The duplicate certificate would, as a matter of course, issue to the party to whom the original was issued, and be delivered to the person claiming to be the assignee, after he had in the usual manner before court established the execution of the last assignment.

J. L. EDWARDS, Esq.

T. EWING.

[82.]

As there are no chancery powers vested in the executive departments, extreme caution should be observed not to issue nor to deliver land warrants to wrong parties; but when so done, caveats and other practicable means of correction must be resorted to by the parties wronged and by the office.

DEPARTMENT OF THE INTERIOR, *March 26, 1850.*

SIR: I herewith return the papers in the case of Frederick Eckstine, under the act of February 11, 1847, and I have to inform you that if a patent has not been issued on the certificate of location issued and delivered to the Hon. J. Jamison, let it be withheld until the parties try their title at law. If it has been issued, as the wrong was brought about by the act of the soldier, let him establish his title to the land at law. Under the circumstances, the warrant ought to have issued to the last order of the soldier, but I do not think the United States ought to be responsible for all the errors of its ministerial officers, when they arise from the irregular acts of the party claiming the indemnity.

This was merely the delivery of the warrant to a wrong agent, and it could not be assigned without the authority of the party entitled, and if so assigned fraudulently or wrongfully, it was the duty of the party to interpose a caveat, if he wished to prevent the issuing of a patent.

In the practice of the office, the rights of parties as fixed by law must be hereafter strictly guarded, as there are no chancery powers vested in the executive departments or their bureaus.

J. L. EDWARDS, Esq.

T. EWING.

[83.]

A private soldier who enlisted for five years, but was honorably discharged before the expiration of the five years by reason of having been promoted to a commissioned officer,

and continued in the service as such, is not excluded from the bounty of his five years' enlistment, by the spirit and meaning of the law.

DEPARTMENT OF INTERIOR, *March 28, 1850.*

SIR: I have examined the papers in the case of Charles Krohne who was a private in the 1st regiment U. S. dragoons.

It appears that said Krohne was enlisted on the 30th November, 1844, for five years, and was *honorably discharged* the 9th May, 1847, by reason of having received a commission as 2d lieutenant in Captain Korponey's company mounted volunteers, from the Governor of Mississippi.

The records of the adjutant general's office show that Krohne was mustered into service as 2d lieutenant, 21st May, 1847, and mustered out of service 13th October, 1848.

The 9th section of the act of February 11, 1847, says "that each non-commissioned officer, musician, or private enlisted, or to be enlisted in the regular army, or regularly mustered in any volunteer company for a period of not less than *twelve months*, who has served or may serve during the present war with Mexico, and who shall receive an honorable discharge, shall be entitled to receive a certificate or warrant from the War Department for the quantity of 160 acres." The applicant comes within the letter of the law. He enlisted for more than 12 months, he served to the end of the war and was honorably discharged, and I do not think he is excluded by the spirit and meaning of the act. He rendered as effectual service to the last as if he had remained in the ranks, and that good conduct and efficiency which induced promotion ought not to deprive the enlisted soldier of his bounty. The papers are herewith returned.

T. EWING.

TO COMMISSIONER OF PENSIONS.

[84.]

Duplicate certificates to be issued, with due caution, in certain cases of lost or miscarried certificates.

DEPARTMENT OF THE INTERIOR, *March 29, 1850.*

SIR: I herewith return the papers in the cases of James C. Young, Thomas Green, Clarke B. Higgins, and Franklin Overacre, to whom certificates of location for 160 acres of land were issued on the 26th January, 1849. It appears from the affidavit of the Hon. Robert Smith that said certificates were mailed by him at Washington city on the 1st day of February, 1849, directed to Messrs. Billings & Parsons, Alton, Illinois, and the affidavits of Billings & Parsons, and the postmaster at Alton, show that said certificates have not reached that office. I am therefore of the opinion that duplicates should be issued, at the same time giving notice to the Commissioner of the General Land Office of the fact, and preserving such evidence in that office, and also in the Pension Office, as shall prevent the improper issue of those heretofore issued.

T. EWING.

J. L. EDWARDS, Esq.

[85.]

The amount of pension to the widow of a revolutionary soldier should be settled by the provisions of law, rather than by the recollection of the parties.

DEPARTMENT OF THE INTERIOR, *April 4, 1850.*

SIR: I have examined the papers in the case of Mrs. Catharine Light, widow of John Light, deceased, who was a forage master during the war of the revolution, and I am of the opinion that the proof of service is very clear.

It appears from the certificate of the Secretary of State, that the "return of persons employed in the forage department, with the army, under the direction of Clement Biddle, commissary general of forage, 1st August, 1779, 'shows' that the pay of a forage master was \$80 per month."

The amount of pension should therefore be settled by the provisions of law and not by the recollections of the party.

T. EWING.

[86.]

The resolution of a definite term of service by witnesses under nine and eleven years old, not to be relied upon as evidence.

DEPARTMENT OF INTERIOR, *April 8, 1850.*

SIR: I herewith return the papers in the case of Leah Westervelt, widow of David Daremus, and I am of the opinion that the witnesses who testify to a definite term of years service, were too young to be relied on, as their ages were but *nine and eleven* years.

They might each observe and remember a distinct fact specially interesting to himself, but cannot be relied upon to have known of the performance of the service at the time if it occurred, or to remember if they understood it; it is a case of after impression, mistaken for memory. The other evidence is all too vague. Your decision of the 27th ultimo is therefore affirmed.

J. L. EDWARDS, Esq.

T. EWING.

[87.]

In certain cases of lost certificates for bounty lands, duplicates may be issued, if evidence of the loss be satisfactory; but with the transfer of title, where the assignment is lost, the Department has nothing to do.

DEPARTMENT OF THE INTERIOR, *April 16, 1850.*

SIR: In relation to the following certificates of location, viz: 27,804, Robert F. Webb, N. C. volunteers; 37,283, Joseph Hardie, N. C. volunteers; 39,750, Harrison C. Cook or Cooke, Va. volunteers; 37,598, James Martin, Va. volunteers; 42,055, William G. Bennett, Va. volunteers; 41,930, John Mount, 11th U. S. infantry; 59,779, Pleasant H. Clingenpeel, deceased, Va. volunteers, I am of the opinion that if you are fully satisfied of the loss of the cer-

tificates in the mail, you may issue duplicates and deliver to the person entitled to the *possession* of the originals. As to the *assignments* transferring the *property*, you can take no notice of them, no matter what the proof may be. The transfer of the title where the assignment is lost is a matter to be settled in a court of justice, and a decree in chancery may be obtained either *before* or *after* the issuing of the duplicate certificates, which will settle the title between the parties.

J. L. EDWARDS, Esq.

T. EWING.

[88.]

Cases once decided by the office cannot be re-opened except upon new and important evidence which could not have been obtained prior to decision.

DEPARTMENT OF THE INTERIOR, *April 17, 1850.*

In the case of Thomas Ewell, it is asked that the papers in said case may again be brought before the Secretary for the purpose of "submitting a question of law and fact."

The case, after a thorough and laborious investigation, has been rejected, and cannot be re-opened except upon new and important evidence, which was not, and could not have been, discovered by using due diligence prior to the decision.

T. EWING.

[89.]

The legal representatives of officers of the Virginia State line of the revolution, are entitled to receive the arrear of their half pay for life, under the provisions of the act of July 5, 1832.

PENSION OFFICE, *April 25, 1850.*

I hereby certify that I have examined the case of Samuel S. Williams, administrator of the estate of William Slaughter, deceased, who claims half pay for life under the act of 5th July, 1832, for the service of the said William Slaughter, deceased, as lieutenant in Colonel Dabney's legion of the Virginia State line, during the war of the revolution; and I find, from the evidence, that said William Slaughter, on the seventh day of April, seventeen hundred and ninety-one, recovered against the State of Virginia a judgment for five years' full pay as lieutenant as aforesaid, the sum of four hundred and eighty pounds, with interest from the twenty-second day of April, seventeen hundred and eighty-three, amounting to two hundred and twenty-one pounds eight shillings. I am therefore of opinion that, pursuant to the decision of the Attorney General in the case of Churchill Gibbs, of the 27th March, 1849, Samuel S. Williams, Esq., administrator of the estate of said William Slaughter, deceased, is entitled to receive, under said act of 5th July, 1832, the half pay of the said William Slaughter, as lieutenant as aforesaid, at the rate of \$160 per annum, from the 23d April, 1783, until 1st September, 1812,

at which time said Williams was still living, deducting therefrom the amount of principal and interest paid upon said judgment against the State of Virginia as aforesaid. The amount is payable to Stephen J. Trabue, attorney for the administrator.

J. L. EDWARDS.

Approved. T. EWING.

[90.]

A person absent in parts unknown, and unheard of for seven years, is presumed by common law to be dead.

DEPARTMENT OF THE INTERIOR, *May 7, 1850.*

SIR: I have received your letter of the 4th instant, in which you submit for decision the question, "whether a person who has been absent in parts unknown for seven years, is presumed to be dead?"

In reply I have to state that, inasmuch as that is the term fixed by common law, after which the death of a person not heard of during that period is presumed [to be dead,] I think it proper that in your decisions you should be governed by the same rule.

J. L. EDWARDS, Esq.

T. EWING.

[91.]

Widows of surviving officers and soldiers of the revolution, who were married before 1794, and were living on the 7th June, 1832, are entitled to the benefits of the act of February 2, 1848.

DEPARTMENT OF THE INTERIOR, *June 6, 1850.*

SIR: In answer to your letter of the 5th instant, submitting the question, "whether widows whose husbands were alive on the 7th June, 1832, are entitled to the benefits of the act of February 2, 1848," I have to state that, in my opinion, such widows are entitled to the benefits of said act.

As the act of February 2, 1848, in express terms embraces the widows of all such revolutionary men as served in the manner specified in the act of 7th June, 1832, whether their husbands *have died* before the passage of the act of February 2, 1848, *or might die thereafter*, (if married prior to 1794,) I do not entertain a doubt that the class of widows mentioned in your letter are entitled to the benefits of said act.

The words "if living at the time it was passed," are inserted for the purpose of determining the *amount* of pension which the widow shall receive, and making it conform to the amount that the husband, if living, would have been entitled under the act of June 7, 1832.

J. L. EDWARDS, Esq.

T. EWING.

[92.]

The war with Mexico commenced on the 24th April, 1846, the date of General Arista's letter to General Taylor, making that declaration, corroborated by other facts, and confirmed by the act of Congress of 13th May, 1846.

DEPARTMENT OF INTERIOR, *June 10, 1850.*

SIR: I have examined the question submitted to me in your letter of the 5th instant., "when did the war with Mexico begin?" and find that on the 24th April, 1846, General Arista addressed a letter to General Taylor in which he gave notice that he "considered hostilities commenced and should prosecute them."

On the same day a party of Americans under Captain Thornton, sent to watch the course of the Rio Grande, became engaged with a large party of Mexicans, and after a short affray in which some sixteen men were killed and wounded, were compelled to surrender.

These facts were made known to the President by General Taylor by a despatch bearing date 28th April, 1846. On receipt of this despatch its contents were communicated to Congress by the President, with a message in which he says that "Mexico has proclaimed that hostilities have commenced and that the two nations are now at war." Whereupon Congress by the act of 13th May, 1846, recognised war as existing with Mexico, and made provision for carrying on said war.

This in my opinion fixes, authoritatively, the commencement of the war on the 24th of April, 1846.

J. L. EDWARDS, Esq.

T. EWING.

[93.]

Commutation claims, on which judgment has not been recovered in Virginia, are suspended, to await the action contemplated by Congress.

DEPARTMENT OF INTERIOR, *June 13, 1850.*

In the case of Isaac Holmes, (commutation,) it is urged "that it be taken up at an early day," &c. A special committee of the House of Representatives have the subject under investigation, and I am unofficially informed that they will report against all cases in which judgments have not been recovered in Virginia, and it would be a breach of courtesy to *pay* or *act upon* those cases, (commutation). Cases of this class will be suspended until Congress reports, and if the report on the general principle is adverse, then there will be no action until such report is sustained or rejected.

J. L. EDWARDS, Esq.

T. EWING.

[94.]

Sickness or other unavoidable cause preventing a soldier from being mustered into the service, shall not invalidate his claim to bounty land.

DEPARTMENT OF INTERIOR, *July 1, 1850.*

SIR: I herewith return the papers in the case of James Thompson, private in the company of Captain Gillespie, 1st regiment of Texas mounted volunteers, and I am of the opinion that his land bounty should be allowed, as sickness, and his being in the hospital in Carmargo, was the reason why he was not mustered into the service with the other members of his company.

JAMES L. EDWARDS, Esq.

T. EWING.

[95.]

Disability of a soldier incurred in the line of his duty in removing Indians, entitles him to a pension.

DEPARTMENT OF INTERIOR, *July 2, 1850.*

SIR: I herewith return the papers in the case of Captain Joseph D. Searight, late of the 5th regiment U. S. Infantry, and I am of the opinion that his disease was contracted in the service, and in the line of his duty, in the fall of 1837, while engaged in emigrating the Pottawattamie Indians from the Wabash to the State of Missouri, and that he was then on Indian duty by virtue of an order from the War Department.

I am furthermore of the opinion that his disability is total, and that his pension should commence on the 1st day of April, 1850,

The certificate of pension to be sent to George C. Thomas, Esq., Washington City.

T. EWING.

J. L. EDWARDS, Esq.

[96.]

The mother of illegitimate children may inherit from them ; but their putative father cannot.

DEPARTMENT OF THE INTERIOR, *July 5, 1850.*

SIR: I herewith return the papers in the case of Thomas Turner, deceased, who was a private in the company of Captain Caldwell, of the regiment of Voltiguers. I think if satisfactory evidence is adduced that said Thomas Turner is an illegitimate child, and that Martha Ann Thompson is his mother, the warrant, No. 65,642, issued on the 30th October, 1849, should be cancelled, and a certificate of location should be issued in the name of the said Martha Ann Thompson, as the mother and heir-at-law of the said Thomas Turner. It is a well-known maxim of law, that in no case can a putative father inherit from a son ; in fact he does not, in law, bear the legal relation of father at all. You will be pleased to give the proper notification to the Commissioner of the General Land Office.

T. EWING.

COMMISSIONER OF PENSIONS.

[97.]

The applicants for bounty land under the act of the 10th August, 1848, having made affidavit in their declaration that they relinquish all claim to prize money and other extra allowances, in pursuance of the proviso of said act, are entitled to receive the bounty; *unless* the Commissioner of Pensions can *rebut* their statement by official evidence from the records of the proper executive departments. The *injustice* of the previous rule or practice of the office in throwing the burden of proof on the claimants or their agents in Washington, is strongly *reproved, rescinded, and countermanded*. If the office doubt the *affidavit*, it must show from the records the ground of doubt.

Even if the claimant has received prize money or other allowance, he may claim the bounty upon making restitution of the same on his election to take the bounty.

DEPARTMENT OF THE INTERIOR, July 8, 1850.

SIR: I have considered the question presented in the case of Henry McKevitt, the papers in which case are herewith returned.

The act of August 10, 1848, provides: "That the officers, non-commissioned officers, and privates and musicians, of the marine corps, who have served with the army in Mexico, be placed in all respects as to bounty land and other remunerations, in addition to ordinary pay, on a footing with the officers, non-commissioned officers, privates, and musicians of the army: *Provided*, That the remuneration shall be in lieu of prize money and all other extra allowances."

By this act the marine so serving is entitled to bounty land, but if he has elected to take it, it is, by the proviso, "in lieu of prize money and all other extra allowances." That is to say, if the marine has received prize money or other extra allowance, he must restore it on receiving his land warrant; if he has not, he can never afterwards receive it. The receipt of the land warrant is of itself sufficient relinquishment of prize money and all other extra allowances. Still, it is proper to require an *express* relinquishment. But there is nothing in the act or the proviso which requires that the marine should, before receiving his bounty land, *prove* that he had *not* received prize money, and it were unreasonable and oppressive to require him to do so. If he has received it, the fact is of record, and ought to be in one of the executive departments, and the Commissioner of Pensions knows, and ought to know, where it is to be found.

The man who rendered the service and is entitled to the bounty, ought not to be expected to know, and it is an arbitrary withholding of justice to require this negative proof of him. His affidavit is generally all the negative proof which is in his power, and is *prima facie* sufficient. But if the commissioner does not know to what office he should apply for the record evidence, or to whom he should give notice that the marine has waived all claim to prize money, &c., how is he to know when the marine comes according to his requirement, with the certificate of that receipt and waiver, that such certificate is from the proper officer? The same doubt which would prevent the commissioner from giving the notice of relinquishment, would prevent him also from receiving the evidence of it as sufficient; and the marine

must wait for his bounty until the commissioner can ascertain what officer pays, and who keeps the records of the payment of prize money. And if, as suggested, the *prize agent* be the person to whom the waiver should be made, and from whom the certificate should be received, and if the commissioner does not know where to *find* him, can the marine be expected or required to *find* him and get his certificate to a mere negative before the United States will fulfil its contract?

Whatever matter is of record in any of the executive departments, is equally in the power of each and all of them, and a party holding a claim against the United States upon a contract such as this, should no more be required to search the files of the Department of War for evidence to be used in the Pension Office, than to search the files of the Pension Office itself. It is, indeed, much more convenient and regular for the several departments to ask of each other such record evidence as they may require, than to allow the agents of individual claimants to seek evidence in one department and bring it to another, as the agent of a party is not the proper medium of communication between the departments. And it is a matter of no importance whether a claimant has an agent in Washington or not. One general rule must be adopted, and it should be such as will facilitate, not obstruct, the fair presentation and settlement of claims, and such as will not render it necessary in common cases, where the evidence, except mere identity, is all of record in the departments, for the claimant who has honestly earned his bounty to employ an agent at Washington, and pay him a large per centum of that bounty for getting copies from the files of one department and carrying them to and placing them on the files of another, in order to secure the bounty. The responsibility suggested in your letter as likely to arise from abandoning the "practice which has heretofore obtained," is one proper to the office, and ought to be assumed.

In my opinion, therefore, the rule of which you speak is neither convenient or reasonable, and ought not to be adhered to; and that the applicant for bounty land under the above recited act, having shown himself entitled by service, and having filed his affidavit that he has received no prize money or other extra allowance, and his relinquishment of all such in future, has satisfied the proviso on his part, and it is then the duty of the commissioner to test by the records of the proper office the verity of the statement, and if they be found true, to give the certificate, and give notice to the proper officer of its issuance and of the relinquishment.

You are required to govern yourself in future by the above instructions in all cases to which they apply, and also by those contained in my letter of the 10th of May last, which I am surprised to find you have thought proper to disregard.

J. L. EDWARDS, Esq.

T. EWING.

[98.]

Officers or privates dismissed from the service for alleged offence by a superior officer, without trial or sentence of a court martial, and remanded to service by the President, are entitled to the land bounty on their fulfilment of the President's order to complete their engagement: Nor shall the failure of an *official communication* of the order to either such officer or private be construed against his readiness to fulfil his engagement, had he an opportunity to do so; but, in default of which, he shall be entitled to the land bounty in the same manner as if he had fulfilled his engagements, which had been interrupted by a superior officer, without the form of a trial.

DEPARTMENT OF THE INTERIOR, August 8, 1850.

SIR: In the claim of Jason H. Hunter, the papers in support of which are herewith returned, I am constrained to think that your decision is erroneous. It does not appear that Hunter was discharged in pursuance of a sentence of a court martial, but was directed to leave the country by an order of Brigadier General Wool, without trial or an opportunity to defend himself. Upon a hearing of the facts, or upon such representations as were satisfactory to himself, the President of the United States directed him, a *private*, together with the *two officers* who were dismissed for the same offence, in the same manner, and at the same time, "to return to the regiment and report for duty." The officers being in Washington, received the order, and did return to the regiment, and served to the end of the war. To Hunter, it appears the order was never directed; and the War Department furnishes no evidence that he was ever officially apprised of its existence. It is to be supposed that he was ready to return to his duty; and since it did not so direct him, the burden of proof rests upon the Government to show that he was not willing to serve out his term.

If the officers of the Government had notified him of the President's order, and he had not reported himself for duty, or if, having so reported himself, he had been tried and convicted, and then discharged for cause, the case would be different. But, as the facts now appear, I am of opinion that the claimant is entitled to his land warrant, for service to the end of his term of enlistment,

The COMMISSIONER OF PENSIONS.

D. C. GODDARD,

Acting Secretary.

[99.]

The statutes of a State govern the inheritance of land bounty. Under the statutes of Indiana, half sisters may inherit the right of their brother.

DEPARTMENT OF INTERIOR, August 22, 1850.

SIR: In reply to your letter of the 21st instant, in relation to the case of Finley Andrews, deceased, I am of the opinion that under the statute law of Indiana, the State to which the deceased belonged, the half sisters who claim his land bounty for his services as a soldier of the 5th regiment, Indiana, in the war with Mexico, can inherit the same. The papers are herewith returned.

T. M. T. McKENNAN, *Secretary.*

[100.]

If the certificate of a commissioned officer cannot be obtained to prove that a widow's husband died of disease contracted in the line of his duty, the testimony of other witnesses may be admitted.

DEPARTMENT OF THE INTERIOR, *September 9, 1850.*

SIR: In reply to your letter of the 7th instant, in relation to the case of Rebecca Gilmore, I have to inform you that, if it shall be shown that the certificate of a commissioned officer cannot be obtained, the testimony of other witnesses may be admitted, provided it shall be made to appear that they were in a situation to know that her husband died of a disease contracted in the service, and in the line of his duty.

They should state with great particularity all the circumstances known to them as to his sickness and death; and their credibility should be certified to by some one known to the department.

T. L. BRAYNARD.

D. C. GODDARD,
Acting Secretary.

[101.]

It is morally certain from historical facts, that the Virginia militia served two years, at intervals, in the war of the revolution.

DEPARTMENT OF INTERIOR, *September 9, 1850.*

SIR: I herewith return the papers in the case of Custis Bull, of Accomac County, Virginia, who was formerly a pensioner under the act of 7th of June, 1832, and who was struck from the rolls in 1835, on the ground that he could not have performed two years service in the Virginia militia during the war of the revolution.

The papers nowhere assert a continuous service of two years, but it is not so improbable in itself and "so contrary to the history of that time" that a portion of the Accomac militia did perform a service of at least two years from 1775, to 1783.

It is well known there was no part of the country more exposed to the inroads of the enemy, and the proceedings of the Virginia Assembly, and the journals of the Continental Congress afford the most abundant evidence that the militia of this county in many instances must have been in the service at various times amounting to two years.

I am therefore of the opinion, that the claimant should be restored to the pension roll.

J. L. EDWARDS, Esq.

D. C. GODDARD,
Acting Secretary.

[102.]

I. Parties living together through a series of years as man and wife, and their having children in the time, proved to be *acknowledged* and *treated* as legitimate, with the direct affidavit of the surviving party, may suffice to establish the marriage, and supercede the necessity of surrendering the family record for that purpose, held dear as a family

voucher. 2. The fact of service claimed to have been rendered by a deceased husband, sustained by a variety of collateral evidence that could not have existed except in connexion with such service, should dispense with the requirement to prove the service in the usual direct manner, when that has become impossible.

DEPARTMENT OF THE INTERIOR, *September 13, 1850.*

SIR: I have examined the evidence of Rhoda O'Quin, widow of John O'Quin, and think the claim should be allowed. In this declaration John O'Quin states that he served three tours of three months each, under a draft, *and one tour as a volunteer.*

The difficulty in the case seems to be that he does not state the duration of his service as a volunteer, and you seem to take it for granted that it was only as long as one term of his service in the militia.

There is no authority for this supposition, either in the declaration referred to, or, so far as I can ascertain, with the very imperfect materials before me in the history of the times.

There is no reason to suppose that his volunteer service was less than twelve months, and the circumstances he details in connexion with his service, would lead to the inference that it was at least that long. This review of the case is supported by the fact that the payment certified by the Comptroller of North Carolina precisely covers the amount of service which I have supposed, namely: twenty-one months in the aggregate. This fact is with me conclusive in the absence of any proof to the contrary. As to the marriage of the claimants, I do not wonder at the aversion of the parties to surrender forever their family record; and I cannot regard that fact as any attempt to deceive. It appears that they have such a record, and that it sufficiently shows the birth of children prior to 1794. The continuous cohabitation of the parties as man and wife for so many years, and the birth of so many children, consecutively acknowledged and treated as legitimate, being proven, the marriage might well be presumed, aside from the direct affidavit of Mrs. O'Quin herself.

The papers are herewith returned.

J. L. EDWARDS, Esq.

D. C. GODDARD,
Acting Secretary.

[103.]

Commutation claims of officers of the Virginia State line and navy are suspended to await the action of 32d Congress: If no further action by Congress, then for further consideration of this department. Secretary of Interior has no control over unexpended balance of commutation fund appropriated for judgments against Virginia.

DEPARTMENT OF THE INTERIOR, *October 4, 1850.*

SIR: I have made some inquiry relative to the case of Lieutenant Isaac Holmes, deceased; and I have to inform you that, in view of the action of the House of Representatives, respecting the payment of commutation and interest to officers of the Virginia State line and navy, I have determined that I cannot with propriety take up and allow any of these cases. Should Con-

gress at its next session make no further legislative provision on the subject, I will then consider what further steps may be taken by the department. In the mean time, all such claims must be suspended. With reference to your suggestion—relative to the amount appropriated to be paid to Virginia, and the money paid under judgments to her revolutionary officers and their representatives, for half pay and commutation of half pay—the agent of said State was required to deposite authenticated copies of the acts or judgments under which that money was paid by the State of Virginia; and since he (Holmes) has already received the amount alleged to be due, I have no control over any unexpended balance of said fund to pay further judgments obtained against the State.

W. T. BARRETT, Esq.

ALEX. H. H. STUART.

[104.]

Death of a soldier arising from intemperance, which is a violation of military law, is not a case of death occurring in the line of duty.

DEPARTMENT OF THE INTERIOR, *October 10, 1850.*

SIR: From an examination of the papers in the case of Mary Hart, widow of Patrick, *alias* John Hart, who asserts a claim under the act of July 21st, 1848, it appears an appeal was taken from the decision of the Commissioner of Pensions, who maintained that the act of 21st February, 1848, did not provide for the case, as Hart did not die from disease contracted in the line of his duty.

The Acting Secretary of the Interior on the 13th ult., overruled the action of the Pension Office, on the ground that Hart enlisted on the 15th February, 1847—joined the army in Mexico; that the return of the Adjutant General showed "John Hart, a private of company B, 4th artillery, died at Camp Ringgold, Texas, December 4th, 1848, of apoplexy;" and that the act of the 22d of February, 1849, expressly provides for the widows of those who remained "in service" to the date of their "death."

The Commissioner of Pensions objected to the issue of the pension certificate, because Assistant Surgeon N. L. Campbell, in an official communication to the Surgeon General, stated that Hart's death was caused by intemperance, and that he was an "habitual drunkard."

This paper, however, was not before the Acting Secretary at the time of his decision, as the certificate of Assistant Surgeon Coolidge verifying that of Surgeon Campbell bears date the 19th September, 1850, which was *six days* after the date of the letter of the Acting Secretary of the Interior overruling the decision of the Commissioner of Pensions.

I am therefore of the opinion, that although apoplexy may be induced by other causes than that of intemperance, yet it is clearly shown that Hart was an habitual drunkard, that his death was

caused thereby, and as drunkenness is an offence against the military laws, he did not die from a disease contracted in the service and in the line of his duty. The claim is therefore rejected.

F. W. RISQUE, *Washington.*

A. H. H. STUART.

[105.]

1. Any portion of the marine corps who served in any of the wars referred to in the act of 28th September, 1850, are entitled to land bounty under that act.

2. By a construction of the bounty land laws, it is decided, that no one person shall receive more than one warrant, though he may have performed several tours of service which would entitle several individuals, each, to a warrant.

DEPARTMENT OF THE INTERIOR, *October 12, 1850.*

SIR: In reply to your letter of the 7th inst., I have to inform you that where any portion of the marine corps in the several wars referred to in the act of the 28th September, 1850, were embodied with the army in the field, and performed service as a portion of the line of the army, they are entitled to the benefit of the aforesaid act.

It has also been decided, that although not expressly provided by the terms of the law, yet its tenor throughout contemplates that the same person shall not receive more than one warrant, although he may have performed service which, if rendered by several individuals, would entitle each to a warrant.

J. A. HOZIER.

A. H. H. STUART.

[106.]

A soldier on parole of the enemy, is still in captivity.

DEPARTMENT OF THE INTERIOR, *October 15, 1850.*

A soldier on parole, is considered to be in "captivity to the enemy."

W. A. GRAHAM, *Secretary ad interim.*

[107.]

Guardians to minor children—their appointments.

DEPARTMENT OF THE INTERIOR, *October 15, 1850.*

The guardian of minor children, claiming under the bounty land law of 1850, should be appointed in the county and State where the children reside.

W. A. GRAHAM, *Secretary ad interim.*

[108.]

The widow of a soldier, if a widow at the passage of the act of 28th September, 1850, and a widow at the time of her application, may be entitled to the land bounty under that act. The widow being married or dead, minor children are entitled.

DEPARTMENT OF THE INTERIOR, *October 26, 1850.*

SIR: In reply to your letter of the 21st instant, in relation to the construction of the act of 28th September, 1850, I have the honor to inform you that the second marriage of the widow deprives her of the benefit of that act, unless she was a widow at the time of the passage of the law, and of her application for the land bounty. The widow being married or dead, minor children are entitled.

WILL. A. GRAHAM, *Acting Secretary.*

Hon. R. H. STANTON.

[109.]

The acts of the 11th January, 1812, and the 11th February, 1847, are of the nature of contracts, whilst that of the 28th September, 1850, is a *gratuity* to the person who performed military duty, or to the widow or minor children.

DEPARTMENT OF THE INTERIOR, *October 29, 1850.*

SIR: In reply to your letter of this day, I have to inform you that there is a marked difference between the acts of 11th January, 1812, and the 11th February, 1847, and that of the 28th September, 1850.

The two former were inducements held out for the purpose of increasing the rank and file of the army, and partook of the nature of the consideration of a contract, while the latter is a gratuity or donation.

The act of 28th September, 1850, gives the land to the person "who performed military service, and actually served, or to the widow or minor children." In relation to the widows of those embraced by said act, in order to receive its benefits, they must have been widows at the time of its passage.

ALEX. H. H. STUART.

[110.]

To lighten the labors of the Department of the Interior and of the Pension Office, letters addressed to the department, on business with that office, will be referred direct to the Commissioner of Pensions, who will acknowledge the receipts of all letters by blank forms properly filled up.

DEPARTMENT OF THE INTERIOR, *October 31, 1850.*

SIR: Heretofore, letters received at this department, making inquiries in relation to, or application for, bounty land under the act of 28th September last, have been endorsed, registered, and acknowledged, and the writers informed of their reference to you.

This imposed a great amount of labor on the department, which properly belonged to your office, and hereafter such letters, when received at the department, will simply be referred to you.

It is my wish that the receipt of all applications for bounty land, and letters making inquiry in relation thereto, may be acknowledged, and the desired information communicated with the least delay practicable, and to aid you in this, would suggest the adoption of a form of printed blank letters, stating that the papers have been received, and that they will be examined and acted on in the regular order of their filing. In order to lessen as much as possible the labors of your office, necessarily very great, I shall cause a notice to bounty land claimants, of which the enclosed is a copy, to be published as extensively as possible, and I have to request that, when any new questions arise as to the proper construction of the act of 28th September, 1850, they may be submitted to the advice of the department, prior to any decision being made.

COMMISSIONER OF PENSIONS.

ALEX. H. H. STUART.

[111.]

The representatives of a widow who had died before the passage of the joint resolution of the 16th August, 1846, cannot claim, as arrearages, the pension that she might have been entitled to, had she been living at the passage of the resolution, which was essential to give her a vested right under the resolution: nor could the arrearages *then* have been available to them, says the Attorney General, "the pension being intended as a personal bounty to the widow, and not a gratuity to her representatives;"* from which, however, the Secretary of the Interior is constrained to dissent, on account of repeated decisions and long established practice to the contrary.

DEPARTMENT OF THE INTERIOR, Nov. 15, 1850.

SIR: I herewith return the papers in the case of Mrs. Polly Knight, deceased, widow of John Knight, deceased, together with the answer of the Attorney General to the question submitted to him in said case; and I am of the opinion that no pension accrued to the said Polly Knight in her life time, from 4th March, 1836, to the death of her husband, she having died before the passage of the joint resolution of the 16th of August, 1842, and therefore her representatives have no right to the arrearages of pension which they claim. As to the further reason given by the Attorney General for rejecting said claim, founded upon the fact that Mrs. Knight never claimed a readjustment of her pension during her life time, I consider it as involving a question not necessary to be considered in this case; but in view of the repeated decisions of that question in opposition thereto, and the long continued and uniform course of practice under said decisions, I am constrained to dissent from that part of the Attorney General's opinion.

J. L. EDWARDS, Esq.

A. H. H. STUART.

* See opinion [116,] p. 473, ante, which gives the true definition of a pension, but lost sight of by a misapprehension of the practice of the office from the time of Mr. Wirt; which misapprehension, however, by courtesy, has governed the practice ever afterwards. (See remarks in the Introduction.)

[112.]

James E. Heath Esq., appointed Commissioner of Pensions.

DEPARTMENT OF THE INTERIOR, *November 27, 1850.*

SIR: The President having appointed James E. Heath, of Virginia, to be Commissioner of Pensions; I have the honor to request that a commission be made out accordingly, and transmitted to this department at your earliest convenience.

Hon. DANIEL WEBSTER.

A. H. H. STUART.

[113.]

In the case of an imbecile widow of a soldier, where no guardian has been appointed, the facts required to establish her claim for bounty land may be shown by deposition of one or more credible witnesses.

DEPARTMENT OF THE INTERIOR, *Dec. 7, 1850.*

SIR: I have the honor to return herewith the letter to you from J. R. Dickenson, esq., which was enclosed in your letter of the 6th instant, and in reply to the inquiry therein made, state that in the case of an imbecile widow of a soldier entitled to the benefits of the bounty land law of the 28th September, 1850, the declaration and proof should be made by the guardian or committee, if one has been appointed. But the appointment of a committee or guardian is not essential for this particular purpose, and in such cases as the present, the facts required to be established may be shown by the deposition of one or more credible and disinterested persons, properly authenticated.

Hon. D. S. DICKENSON.

A. H. H. STUART.

[114.]

Forms and instructions prepared for the guidance of claimants of bounty lands under the act of 28th September, 1850.

DEPARTMENT OF THE INTERIOR, *December 20, 1850.*

SIR: Your letter of the 12th instant, relative to preparing claims under the recent bounty land law, has been received. In reply, I have to inform you that this department has no authority to designate any person for such duty.

Forms and instructions have been prepared for the guidance of claimants, several copies of which are herewith enclosed.

A. H. H. STUART.

[115.]

Different terms of service by the same individual are to be consolidated, and only one warrant issued for the aggregate. See like decision [105] p. 537 note.

DEPARTMENT OF THE INTERIOR, *January 22, 1851.*

SIR: The question has been propounded to me whether, if a

soldier has served a tour of four months, and subsequently a tour of one month, he shall receive two warrants, one of 80 and the other of 40 acres, making an aggregate of 120 acres? My first impression was, that he should receive two warrants for the two terms of service. But, upon examining the law and considering the practicable operation of the principle, I have come to the conclusion that he will be entitled to the 80 acre warrant only.

If the law had intended that intermediate quantities, between 80 and 160 acres, should be received, it would have made provision for the case.

This not having been done, I am led to believe it was not intended.

Moreover, if two warrants be allowed, the practical effect might be, that a soldier serving five months in two terms, might receive a larger compensation, by one half, than one who served eight months and twenty-nine days in one continued term of service. I think, therefore, that the safest plan is to adhere to the subdivisions, made by the law, of 40, 80, and 160 acres, and not attempt by a combination of two of them to make a new subdivision of 120 acres. You will, therefore, regard this as the regulation of the department on this point.

To JAMES E. HEATH, Esq.

A. H. H. STUART.

[116.]

Troops called out by the President cannot claim land bounty, (nor pension,) unless they were mustered into the service of the United States.

DEPARTMENT OF THE INTERIOR, *February 3, 1851.*

In reply to your letter of the 29th ultimo, in relation to claimants under the recent bounty land law, I have the honor to inform you that, under my construction of the act, troops called out by a proclamation of the President of the United States, must have been mustered into the service of the United States, to entitle them to the benefit of the law.

J. A. PEARCE, *U. S. Senate.*

A. H. H. STUART.

[117.]

Non-commissioned officers and soldiers engaged in the war with the Creeks, called Creek disturbances, from the 5th of May, to the 30th of September, 1836, entitled to bounty land under the act of September 28, 1850.

DEPARTMENT OF THE INTERIOR, *February 26, 1851.*

SIR: After a careful examination of the second or explanatory letter from the Adjutant General, and a personal interview with the Secretary of War on the subject, I am satisfied that what the Adjutant General in his first letter termed "Creek disturbances no war," was really an Indian war, within the meaning of the

act of September 28, 1850; and, therefore, that those persons and the representatives of such as are dead, who were engaged in it, are entitled to bounty land under its provisions.

I find that the Creek nation was in a state of open hostility to the whites, that large bodies of men were mustered into the service of the United States, under their officers, to repel the attacks of the Indians; that several engagements took place, and many lives were lost in battle; and that provision was made by the United States government for the payment of the expenses of the campaign; and, indeed, that it possessed all the characteristics of a war, except a formal declaration. Having thus a firm and legal ground to stand upon, I take great pleasure in stating to you, that I am of the opinion, that the provisions of the bounty land law of September 28, 1850, apply to those non-commissioned officers and soldiers engaged in the Creek war, which commenced May 5, 1836, and ended September 30, 1836.

Hon. H. A. HARALSON, *H. of Reps.*

A. H. H. STUART.

[118.]

The location of the bounty land, under the act of 28th September, 1850, must be on land that has been actually offered at public sale before the 3d March, 1851.

DEPARTMENT OF THE INTERIOR, *March 17, 1851.*

SIR: In reply to your letter of the 13th instant, I have to state that, under an act of Congress, approved 3d March, 1851, no bounty land warrant issued under the act of 28th September, 1850, or by virtue of any prior law granting bounty land, can be located on any land which had not prior to the passage of the act of the 3d of March last, been brought into market, and which was not then subject to private entry; so that the land applicable to the satisfaction of all warrants, not yet located, must have been surveyed, proclaimed for sale by the President, and actually offered at public sale prior to 2d March, 1851.

T. H. SPINDLE.

A. H. H. STUART.

[119.]

1. Land bounty is not granted by provision of any law, to volunteers engaged in removing Indians from North Carolina in 1838 or 1839.

2. Military land warrants cannot be located on pre-emption lands, nor on lands actually settled and cultivated, without the consent of the pre-emptor, and the settler, satisfactorily proven.

DEPARTMENT OF THE INTERIOR, *March 19, 1851.*

SIR: In reply to your letter of the 27th ultimo, I have to inform you that there is no law granting bounty land to the volunteers, engaged in removing the Indians from the west part of North Carolina in the year 1838 or 1839. Military land warrants cannot be located on pre-emption claims without the consent of the pre-

emptoner, nor upon lands upon which there shall be an actual settlement and cultivation, except with the consent of such settler, to be satisfactory proven to the the proper land officer.

H. T. JOHNSON, Esq.

A. H. H. STUART.

[120.]

The *constructive service* of an officer of the revolution *after* he had retired as a supernumerary, will not entitle his widow, with whom he had intermarried after he had retired, to a pension under the 3d section of the act of July 4, 1836: the terms of the act of June 7, 1832, to which that section refers, contemplate *actual service* performed, before the expiration of which the marriage should have taken place.

DEPARTMENT OF THE INTERIOR, April 19, 1851.

SIR: I have examined the claim of the representatives of Paulina LeGrand, presented in your letters of the 8th and 11th instant.

The 3d section of the act of July 4, 1836, under which the claim is made, provides, that if any person who served in the war of the revolution in the manner specified in the act of 7th June, 1832, have died leaving a widow, whose marriage took place before the expiration of the last period of his service, such widow shall be entitled, &c.

In this case the husband of the applicant served in the war of the revolution, but became a supernumerary some eight or ten months before he intermarried with the applicant's intestate. The right of the pension depends upon the construction which may be placed on the words "before the expiration of the last period of his service." Do they contemplate actual service only, or do they also embrace the constructive service of a supernumerary? If the former, then the pension must be denied; but if the latter, the widow or her representatives is clearly entitled.

After due consideration of the language and the objects of the law, I am of the opinion that the law was intended to apply only to cases of actual service, and to marriages before the expiration of the last period of actual service.

If the constructive service of a supernumerary is embraced by the law, then it will embrace the cases of all supernumeraries up to the close of the war, for they were all constructively in service up to the close of the war. If Congress had meant that, a much more simple mode of expressing it would have been, to say, that the widows of all soldiers actually or constructively in service up to the close of the war should be entitled. Again: if that kind of service was contemplated, what are we to do with the words "before the expiration of the last period of his service." This evidently contemplated distinct periods of service, between which there were intervals of non-action; and it gives the benefit of the act to all whose marriages took place before the expiration of the last period of his service.

Now if the constructive service of a supernumerary were em-

braced, as it was continuous and unbroken up to the close of the war, there were no periods in it.

You would therefore give the widows of all supernumeraries who were married before the close of the war, pensions, whilst the widows of those who were in actual service fighting the battles of their country, would be entitled only when the marriage took place before the expiration of the husband's last period of service. In other words, supernumeraries would stand on higher grounds than those who actually remained in the field whilst there was fighting to do. In my opinion neither the policy nor the language of the law warrants any such construction. The case of Lilly, in my opinion, has no bearing on the question involved here. That was a case turning on the phraseology of the Virginia law. But if I were to apply the principles expressed particularly by Judge Carr, on page 529, to the construction of the act of Congress, they would fortify me in the conclusion I have arrived at.

The act of May, 1779, provides "that all such officers who shall serve from thence forward, or from the time of their being commissioned, to the end of the war, and all such officers who have or shall become supernumerary," &c.

The introduction of the latter clause would seem to indicate that, without it, the prior provision would not have embraced the case of supernumeraries. Judge Carr, in commenting on this law, after citing the first clause, says, "if the law had stopped here, there would have been no doubt. All officers found in service at the close of the war would have been clearly entitled. But there was another class for whom the assembly thought it just, and felt it important to provide—"all such officers who have and shall become supernumerary," &c. Here then the distinction is clearly recognised, even under the Virginia law, between officers in service and supernumeraries, in the act making provision for them. Construing the act of Congress by the same rule, it would seem to be proper to understand the term service as having the same meaning in that act that it has in the Virginia law.

Without extending the argument further, I am clearly of the opinion that under the act of 4th July, 1836, a supernumerary was not in service in the sense in which the words are there used.

JAMES E. HEATH, Esq.

A. H. H. STUART.

[121.]

Bounty land warrants cannot be located in Oregon under the restrictive *proviso* of the act of the 3d March, 1851.

DEPARTMENT OF THE INTERIOR, *May 2, 1851.*

SIR: In reply to your inquiry, propounded in your letter of the 28th ult., whether bounty land warrants can be located on the public lands in Oregon, I have to state, as the act of Congress, approved 3d March last, prescribes that no such warrants shall be satisfied out of any public lands not heretofore brought into

market, and then subject to entry at private sale under existing laws, and as there is no public land in Oregon which was on the 3d March last, subject to entry at private sale, it follows that warrants cannot at any time be located in Oregon under existing laws.

J. J. CRITTENDEN, *Acting Secretary*.

[122.]

Erasure and re-writing, noted as having occurred before issuing a warrant, or even a patent or deed, do not vitiate the instrument.

DEPARTMENT OF THE INTERIOR, *May 20, 1851.*

SIR: As the *warrant* does not constitute a part of the *legal title*, and as it is not an assignable subject, I do not think it necessary to cause those sent to me to be cancelled. If erasures had occurred in *patents* which are *muniments of title*, and not mere matters of inducement to the grant, the case would have been different. To avoid any difficulty, the Commissioner would doubtless make a note to the effect that the erasure and re-writing occurred before issuing the warrant, which would cure all defects even in a deed or patent.

J. S. GALLAHER.

A. H. H. STUART.

[123.]

The action of the Secretary on pension claims is only by appeal from original decisions below, which belong to the Commissioner of Pensions.

DEPARTMENT OF THE INTERIOR, *September 26, 1851.*

SIR: Your letter of this date, enclosing an application of the children of Jas. Dale, deceased, for a pension, and asking my opinion on the merits of the case, has been received. Your request being at variance with the established rule of action in such cases, I must decline complying with it. Should you desire it, the papers will be referred to the Commissioner of Pensions; in the event of an adverse decision from whom, you could then bring the case properly before me in the nature of an appeal.

A. H. H. STUART.

[124.]

The pension to the survivor of several children entitled to it, should suffer no deduction on account of the deceased children.

DEPARTMENT OF THE INTERIOR, *October 2, 1851.*

SIR: I herewith return the papers relating to the claim of Sally H. Lane, which accompanied your letter of the 2d August last.

I agree with you in regarding the mode in which her claim was originally adjusted irregular and erroneous, and that the claimant, as surviving child of James Woodbury, should suffer no

debuction on account of other children who died before the passage of the law granting the pension.

The general practice of your office, is correct and this case should be made to conform to it.

COMMISSIONER OF PENSIONS.

A. H. H. STUART.

[125.]

1. The *interval* between the expiration of an act granting pensions, and an act reviving the same, is not available to pension claims, that were not *vested* during the first term of the revived act: such claims must be considered under the act revived.

2. A debtor for money erroneously paid him or her by the United States, (as a pension, for example,) is properly chargeable with interest on the same, to be calculated and deducted out of subsequent payments accruing to the debtor; to be computed as is directed by Chancellor Taylor. 4 Henning and Mumford's Reports, p. 431.

DEPARTMENT OF THE INTERIOR, *October 29, 1851.*

SIR: I herewith return the papers in the case of Prudence Clarke, from your decision on which an appeal was taken by Mr. S. A. Peugh. I fully concur with you as to the propriety as well as justice of exacting interest on the money erroneously received by Mrs. C., but I cannot sanction the mode adopted by you, of computing interest in the statement rendered by you of the present condition of the account between the United States and Mrs. Clarke. And I find also upon an examination of the case, that a material error is committed in the allowance to a claimant of a credit for two years pension from the 4th March, 1841, to 4th March, 1843, when in fact during this period there was no law in existence granting such pension. The act of July 7th, 1838, having expired on the 4th March, 1841, and not having been revived to take effect until 4th March, 1843. I herewith transmit a statement of the account based upon the decisions of the courts in Virginia and several other States, respecting the legal and proper mode of computing interest by which you will be guided in adjudicating the claim of Mrs. C; and for your future guidance in similar or other cases where interest is properly chargeable, you will adopt the rule laid down by Chancellor Taylor, of Virginia, in the case of *Lightfoot vs. Price*. 4 Hen. & Mumf. Rep. 431. "The proper mode of calculating interest where partial payments have been made is as follows: So much of any payment as is equal to the interest is to be applied to the discharge thereof, and the residue towards discharging the principal, unless the debtor at the time of the payment, or before, directed otherwise; that is to say, from the sum of principal and interest computed at the time of payment, the sum paid is to be deducted, and the balance to form a new capital, bearing interest; but with this caution, that the new capital be not more than the former; so that if the payment be less than the interest due at the time, the surplus of interest must not augment the remaining capital, because that would give interest on interest, which would be unlawful."

You will place Mrs. Clarke's name on the pension roll under the act of July 7, 1838, and issue the certificate in her favor for whatever amount of arrears of pension which may appear due her upon a settlement of the account when stated in accordance with the above. I would further remark, in reference to the amount of pension which she received as accruing from the 4th March, 1836, to the 4th March, 1839, (\$550,) that although it was paid to her under a mistake, or even through fraud and misrepresentation, still she was clearly entitled to it, had she made a proper application; and the manner in which she obtained it cannot so affect her rights as to render it liable to the charge of interest; hence, in the *enclosed statement*, I have not taken it into consideration in my computation of interest.

A. H. H. STUART.

[126.]

Papers filed with applications for pensions or bounty lands cannot be withdrawn, but certified copies may be had in their stead.

DEPARTMENT OF THE INTERIOR, *November 1, 1851.*

SIR: In reply to your letter of the 11th ult., in relation to the discharge of Jeremiah Keeler, I have to inform you that if the discharge has been filed with the papers asserting a claim, it cannot be withdrawn. A certified copy, however, will be furnished on your application to the Commissioner of Pensions.

O. T. KEELER, Esq.

A. H. H. STUART.

[127.]

Bounty land warrants regularly issued by the Department, however fraudulently obtained, are valid against the Government when they have passed into the hands of innocent purchasers without notice of the fraud which has been practised.

DEPARTMENT OF THE INTERIOR, *November 10, 1851.*

SIR: I have considered the question submitted in your letter of the 18th July last, upon the cases presented by Messrs. Chubb & Schenck, and am of the opinion that the cancellation of the warrants referred to, should be removed upon satisfactory evidence that they are in the hands of innocent purchasers, without notice of the fraud which has been practised.

They are genuine warrants, issued from your office in due form of law, and any irregularity in the evidence upon which your office acted, or any fraud practised in procuring them, should not affect holders innocent of the irregularity or fraud.

The faith of the Government is pledged to the extent declared on the face of the warrants; and the carelessness or mistakes of public officers should work injury only to the Government which employs them, and not upon persons who act and invest their means upon the proper presumption that the business of the Government is accurately transacted. Such warrants, therefore, as

are regularly issued from your office, and are shown to have passed into the hands of innocent parties, must be located and dealt with in every way as if the evidence upon which they issued was perfect. The papers accompanying your letter are herewith returned.

COMMISSIONER OF PENSIONS.

A. H. H. STUART.

[128.]

Claimants or agents may examine files and records connected with their claims, under the immediate superintendence of the chief clerk.

DEPARTMENT OF THE INTERIOR, *November 11, 1851.*

SIR: As the appeals from your office are very numerous, and it is alleged that the cause of the same is the prohibition of agents examining the papers, you will be pleased in all cases, when an agent shall produce satisfactory evidence that he is authorized to act for the claimants, to direct your chief clerk to permit their examination under his immediate inspection. I consider a letter or a power of attorney from the party claiming to be sufficient authority to authorize such examination.

JAMES E. HEATH, Esq.

A. H. H. STUART.

[129.]

The descent of arrears of pensions, under the acts of March 3, 1817, and June 19, 1840, is confined to the children of the deceased widow, which includes illegitimate children as well as legitimate.

DEPARTMENT OF THE INTERIOR, *December 1, 1851.*

SIR: I have considered the case of Urcilla Leath, late widow of William Leath, presented for my decision in your letter of the 18th August last.

The only questions now arising in the case are: 1st. Can the illegitimate children of the deceased, born after the death of her husband, take the arrears due to said widow at the date of her death? and, 2d, In case they are not entitled, should said arrears be paid to her nephew and heir-at-law, Louis Dechart?

With regard to the second question, it is clear it must be answered in the negative. Both the law of March 3, 1817, under which the claim is made, and that of June 19, 1840, regulating the descent of arrears of pension, generally restrict the payment of such arrears to the widow or children of the person for whose services the pension was granted.

The first question is of more difficult solution. If Urcilla Leath had married and had children her pension would have ceased at the date of her marriage, and neither she nor they would have been able to set up this claim, and it would seem to be a strange anomaly in the law to show more favor to illegitimate children than those born in wedlock; and yet, whatever may have been the intention of its framers, such is its legal import.

If, instead of the words "child or children," the word "heirs" had been used, the claimants could of course be excluded, under the law of descents in this district, but the words "child or children" have no such restricted sense.

They occur in the law not as descriptive of any legal relation, but as merely *descriptio personæ*, and must as necessarily apply to all *offspring or issue of the body* of her, under whom these persons claim, as if those had been the terms used.

I think, therefore, that the claim of Julia Ann Forrest, Francis Luckett, John Luckett, and Ellen Clements, must be allowed.

The administrator having waived the claim heretofore made by him, no decision is necessary as between him and the other parties. The papers relating to this case are herewith returned.

JAMES E. HEATH, Esq.

ALEX. H. H. STUART.

[130.]

A bounty land warrant, issued after the death of the soldier, must be cancelled, and the widow or minor children entitled to make a new application; but, if there be none, the grant lapses to the country.

DEPARTMENT OF THE INTERIOR, *December 27, 1851.*

SIR: In reply to your letter of the 26th instant, "in relation to the location of a land warrant of a deceased soldier, issued under the act of September 28, 1850," I have to inform you that the 3d section of the act provides that the warrant may be located by the "*heirs-at-law*." When the warrant is issued subsequent to the death of the soldier, under my construction of the law, the warrant becomes void and should be cancelled, and the widow or minor children, if there be any, would be then entitled to make a new application; and if there be no widow or minor children the grant lapses under the limitation of the beneficiaries to the bounty,

Hon. D. T. JONES.

A. H. H. STUART.

[131.]

According to a decision by the Supreme Court of Appeals of Virginia, sanctioned by the 3d section of the act of Congress of July 5th, 1832, as valid against the United States, any officer in the Virginia State line of the revolution, is entitled, for life, not only to half pay as an officer, but to the half of the pay he may have been legally entitled to by reason of any additional duty performed, or position occupied; and any arrear thereof to go to his legal representative.

DEPARTMENT OF THE INTERIOR, *January 27, 1852.*

SIR: I herewith return the papers relating to the claim of William Reynolds for half pay under the act of July 5th, 1832, having examined the question last presented, whether or not he is entitled under the act to half the pay which he received as Director

of the State Laboratory, or only to half of that which his linear rank as Lieutenant of Artillery gave him?

By the act of 5th July, 1832, the Secretary of the Treasury, and by subsequent laws the Commissioner of Pensions and this Department, are required to adjust and settle claims of this character "on the principles of the half pay cases already decided in the Supreme Court of Appeals" of the State of Virginia. That court has decided, in the case of staff officers, that the "half pay" contemplated by the Virginia act of 1779 and the act of Congress of July 5th, 1832, is to be taken as half, not merely of the amount received by such officer monthly, as an officer of the line, but of whatever other amount he was legally entitled to, at the termination of his services, by reason of any additional duty performed, or position occupied. By the application of this "principle" to the present case, I have arrived at the conclusion that Reynolds' claim must be settled in the same manner, and that his representative is now entitled to one-half of the pay which he received at the close of the war, he holding, in addition to his linear rank of Lieutenant of the State Artillery, the position of Director of the State Laboratory, and receiving additional pay as such.

COMMISSIONER OF PENSIONS.

A. H. H. STUART.

[132.]

A soldier on furlough is considered to be "in the service,"* and his title to bounty land shall not be diminished by deducting the term of his furlough.

DEPARTMENT OF THE INTERIOR, *January 27, 1852.*

I have examined all the original papers in the Pension Office in regard to the claim of Jonathan Rogers for bounty land, and am at a loss to conceive any reasonable ground for an objection to the allowance of his claim. The papers, independently of your statement, show that he was enrolled 25th May, 1847, and mustered and received into service at Jeffersonville, for the war, on the 14th June, 1847, and received his clothing. By the rules of this Department, and also, as I believe, by those of the War Department, a soldier who has a furlough, or leave of absence, is still regarded as in the service; and therefore the statement made by you, in your certificate in favor of Mr. Rogers' claim, was strictly in accordance with the facts of the case.

Hon. W. A. GORMAN.

A. H. H. STUART.

* To be "in the service," seems to be very much of a parallel with the vexed question of being "in the line of duty;" and, to our apprehension, we should say, they are convertible terms. Consequently, a wound, disease, or other disability occurring to a soldier whilst on legal furlough, he being still "in the service," that is, "in the line of his duty," would entitle him to a pension, as well as to bounty land. Yet, strange to say, the first opinion of an Attorney General here given, (ante, p. 327,) denies that a soldier is "in the line of his duty," that is, "in the service," whilst he is on furlough. The better opinion seems to be, that he is always in the line of duty, during his enlistment, except when he has withdrawn from it by resignation or desertion.

III.
REGULATIONS, FORMS AND INSTRUCTIONS,
BY
SECRETARIES OF WAR, NAVY, TREASURY, INTERIOR,
AND THE
COMMISSIONER OF PENSIONS,
IN EXECUTION OF THE PENSION LAWS AND BOUNTY LAND LAWS.

[1.]

Regulations established by the Secretary of War, for substantiating claims to Pensions on accounts of wounds or other injuries received during the late war with Great Britain.

WAR DEPARTMENT, *December 23, 1817.**

The following evidence will be required in all militia cases, and cases of the regular army, where the discharge and surgeon's certificate have been lost or destroyed, or where none have been given, to enable the Secretary of War to grant pensions, viz :

In cases where the regular discharge and the surgeon's certificate for disability cannot be had, the applicant for a pension, whether he has been a soldier† of the regular army, or a militiaman, in the service of the United States, must produce the sworn certificate of his captain, or other officer under whom he served, stating distinctly the time and place of his having been wounded, or otherwise disabled ; and that the same wounds or disabilities arose while in the service of the United States, and in the line of his duty ; with the affidavit of one or more surgeons‡ or physician, whether of the army or citizens, accurately describing the wound, and stating the degree of disability to which the soldier may be entitled under it. These documents to be sworn to before a judge of the United States' court, or some judge or justice of the peace ; and, if a State judge or justice of the peace, then, under the seal of the clerk of the county in which such judge or justice may reside ; and the name of the paymaster, who last paid the soldier, as belonging to the service of the United States, to be in every instance furnished by the applicant, in order to a due examination of the muster rolls.

* The absence of any evidence of regulations anterior to 1817, can hardly be explained by the conflagration of the War Department by the British in 1814. But the want of forms of declarations for the use of applicants for pensions in accordance with the regulations of 1817 and 1818, above given, might be well supplied, were it necessary, from the tenor of those regulations, compared with the forms embraced in the regulation [3.]

† These rules of evidence are applicable to claimants of every grade.

‡ The applicant, if within thirty miles of an army surgeon, must obtain his certificate.

[2.]

Rules and regulations for substantiating claims to Pensions, to be observed under the law of Congress of the 18th of March, 1818, viz :

WAR DEPARTMENT, *March 25, 1818.*

The commissions of officers, and the discharges of the regular soldiers of the army of the revolution, (if in existence,) applying for pensions under the above act, will, in every instance, be furnished to the War Department; and the signatures of the respective judges, certifying in these cases, must be attested by the seal of the courts where such judges preside. The person applying for a pension to declare, under oath before the judge, that, from his reduced circumstances, he needs the assistance of his country for support.

J. C. CALHOUN, *Secretary of War.*

[3.]

Rules of evidence adopted by the Secretary of War, in revolutionary pension claims under act of June 7, 1832.

DEPARTMENT OF WAR, *June 27, 1832.*

The following regulations have been adopted by the Secretary of War for carrying into effect the act of Congress, passed June 7, 1832, entitled "An act supplementary to 'An act for the relief of the surviving officers and soldiers of the Revolution :'"

This law has been construed to extend as well to the line as to every branch of the staff of the army, and to include, under the terms "continental line," "State troops," "militia," and "volunteers," all persons enlisted, draughted, or who volunteered, and who were bound to military service; but not those who were occasionally employed with the army upon civil contracts, such as clerks to commissaries and to storekeepers, &c., teamsters, boatmen, &c.

Four general classes of cases are embraced in this law—

- I. The regular troops.
- II. The State troops, militia, and volunteers.
- III. Persons employed in the naval service.
- IV. Indian spies.

I. As rolls of the regular troops in the revolutionary war exist in this department, all persons claiming the benefit of this law, as officers, non-commissioned officers, musicians, or privates, will, in the first instance, make application by transmitting the following DECLARATION 1, which will be made before a court of record of the county where such applicant resides. And every court having, by law, a seal and clerk, is considered a court of record.

If, on examination of the proper record, the names of applicants making *declaration 1*, cannot be found, they will receive detailed instructions respecting the nature and form of the testimony they must produce, to secure their being placed on the pension roll. *Vide note (j).* As the presumption will, in such case, be

against the applicants, in consequence of the omission of their names in the muster rolls, they will be required to furnish, as near as may be, the same evidence as has heretofore been required by the regulations and practice adopted for carrying into effect the act of Congress of March 18, 1818, and the acts supplementary thereto, with such relaxations as have been, from time to time, sanctioned by the Department, on account of the rapid decrease of the survivors of the revolutionary army, and the consequent difficulty of procuring direct positive testimony in every case.

Whenever an officer, or non-commissioned officer, is now in the receipt of a pension, he should make application, if entitled to the benefits of this act, by letter merely, setting forth his rank, and the regiment, corps, or vessel, in which he served, and his present place of residence. His pension certificate must accompany his letter.

In those cases where the applicants have once been on the pension roll, under the act of March 18, 1818, and have been dropped therefrom on account of property, or from any other reason; or, where the application has been made under the act of May, 15, 1828, and the evidence of service is in the department; or, having made application and proof of service, and having been rejected, instead of the said *declaration 1*, they will make a statement, setting forth, under oath, their having been previously on the pension roll, and their having been struck from the same, showing their rank, the regiment, corps, or vessel, in which they served, their present place of residence, when the first application was made, or of their application under the act of 15th of May, 1828.

¶ In a case where a claimant may make personal application at this Department and can produce satisfactory proof of service, and of his identity also at the seat of Government, he may make his declaration before a justice of the peace.

II. The case of the State troops, volunteers, and militia, is different. There are, in the Department, no rolls of the State troops, except those of Virginia; and no rolls of the militia, except those of New Hampshire.

Applicants who served in the State troops of Virginia, and applicants who served in the militia of New Hampshire, will be required to produce the same proof as is prescribed for those who served upon the continental establishment. But with respect to the other State troops and militia, there is no record to advert to, and no presumption to be rebutted. The nature of the case, therefore, demands a different rule of proceeding.

Every applicant who claims a pension by virtue of service in the State troops, volunteers, or militia, except as is above provided, will make and subscribe the following *DECLARATION 2*.

The form of the proceedings, and of the certificates, will be so varied as to meet the case, when the declaration is made out of court, before a judge, as heretofore provided for.

Every applicant will produce the best proof in his power. This is the original discharge or commission; but if neither of these

can be obtained, the party will so state under oath; and will then procure, if possible, the testimony of at least one credible witness; stating, in detail, his personal knowledge of the services of the applicant, and such circumstances connected therewith as may have a tendency to throw light upon the transaction.

If such surviving witness cannot be found, the applicant will so state in his declaration, *vide note (l)*; and he will also, whether he produce such evidence or not, proceed to relate all the material facts which can be useful in the investigation of his claim, and in the comparison of his narrative with the events of the period of his alleged service, as they are known at the Department. A very full account of the services of each person will be indispensable to a favorable action upon his case. The facts stated will afford one of the principle means of corroborating the declaration of the applicant, if true, or of detecting the imposition, if one be attempted; and unless, therefore, these are amply and clearly set forth, no favorable decision can be expected. All applicants will appear before some court of record in the county in which they reside, and there subscribe and be sworn to one of the declarations provided, according to the nature of his case.

The court will propound the following interrogatories, *vide note (m)*, to all applicants for a pension, on account of service in the militia, State troops, or volunteers, except the militia of New Hampshire and the State troops of Virginia:

1st. Where, and in what year, were you born?

2d. Have you any record of your age? and, if so, where is it?

3d. Where were you living when called into service; where have you lived since the revolutionary war; and where do you now live?

4th. How were you called into service; were you draughted, did you volunteer, or were you a substitute; and, if a substitute, for whom?

5th. State the names of some of the regular officers who were with the troops where you served; such continental and militia regiments as you can recollect; and the general circumstances of your service.

6th. *To a soldier*.—Did you ever receive a discharge from the service; and, if so, by whom was it given; and what has become of it?

To an officer.—Did you ever receive a commission; and, if so, by whom was it signed; and what has become of it?

7th. State the names of persons to whom you are known in your present neighborhood, and who can testify as to your character for veracity, and their belief of your service as a soldier of the revolution.

The court will see that the answers to these questions are embodied in the declaration, and they are requested to annex their opinions of the truth of the statement of the applicant.

The applicant will further produce in court, if the same can be done, in the opinion of the court, without too much expense and inconvenience to him, two respectable persons, (one of whom

should be the nearest clergyman, if one lives in the immediate vicinity of such applicant,) who can testify, from their acquaintance with him, that they believe he is of the age he represents, and that he is reputed and believed in the neighborhood to have been a revolutionary soldier, and that they concur in that opinion. If one of these persons is a clergyman, the court will so certify; and they will also certify to the character and standing of other persons giving such certificates.

The traditionary evidence of service is deemed very important, *see (k)*, in the absence of any direct proof, except the declaration of the party; and the courts are requested to be very particular in the inquiry whether the belief is general, and whether any doubts have ever existed upon the subject. To require from the applicants positive proof of service from a contemporary survivor, would, after the lapse of so many years, be to deprive many of them of the benefit of the law; and, as no presumption is raised against the militia by the existence of rolls in the department, there is no good reason why this requisition should be extended to them. On the other hand, to receive the declaration of the parties as a sufficient ground for placing them upon the pension roll, without corroborating circumstances, would be to open the treasury to great frauds. A just medium seems to present the best rule for carrying into effect the objects of Congress.

If the two persons whose certificates are required cannot be produced in court without too much inconvenience and expense to the applicant, then the statement of the facts and opinions above mentioned will be made under oath, before some judge or justice of the peace; and the certificate of the court to the situation and credibility of the persons making the statement will be given. Applicants unable to appear in court by reason of bodily infirmity, may make the declaration before required, and submit to the examination before a judge or justice of a court of record of the proper county, and the judge or justice will execute the duties which the court is herein requested to perform, and will also certify that the applicant cannot, from bodily infirmity, attend the court.

Whenever any official act is required to be done by a judge or justice of a court of record, or by a justice of the peace, the certificate of the Secretary of State or Territory, or of the proper clerk of the court or county, under his seal of office, will be annexed, stating that such person is a judge or justice of a court of record, or a justice of the peace, and the signature annexed is his genuine signature.

III. Persons serving in the marine forces.

IV. Indian spies.

Each of these two latter classes of cases will produce proof, as nearly as may be, conformably to the preceding regulations, and authenticated in a similar manner, with such variations as the different nature of the service may require. No payments can be made on account of the services of any person who may have

died before the taking effect of the act of June 7, 1832; and, in case of death subsequent thereto, and before the declaration herein required is made, the parties interested will transmit such evidence as they can procure, taken and authenticated before a court of record, showing the services of the deceased, the period of his death, the opinion of the neighborhood respecting such services, the title of the claimant, and the opinion of the court upon the whole matter.

By the resolution of Congress of the 14th July, 1832, the time of imprisonment as a prisoner of war shall be taken and computed as a part of the period of service, in the execution of the act of June 7, 1832.

JAMES L. EDWARDS.

[The following forms of Declarations, with the instructions in [brackets,] and the notes from (a) to (j) are to be strictly observed. The DECLARATION 1, is for the regular troops of the army. The DECLARATION 2, is for the State troops and militia. No forms were prescribed for the naval service and Indian spies; but they are required, under those heads in the text, "to be conformable to the foregoing regulations." The additional notes, (j.) (k.) (l.) (m.) are referred to in the text.]

[DECLARATION 1.—In order to obtain the benefit of the act of Congress of June 7, 1832.]

STATE, [TERRITORY, OR DISTRICT] OF _____, } ss.
County of _____,

On this _____ day of _____, personally appeared (a) the _____ of the _____ A** B**, a resident (b) of _____ in the county of _____, and State [Territory, or District] of _____, aged (c) years, who being first duly sworn according to law, doth, on his oath, make the following declaration, in order to obtain the benefit of the provision made by the act of Congress passed June 7, 1832: That he enlisted in the army of the United States in the year (d) with _____, and served in the (e) regiment of the _____ line, under the following named officers:

[Here set forth the names and rank of the field and company officers; the time he left the service, and if he served under more than one term of enlistment, he must specify the particular period, and rank, and name of his officer; the town or county, and State in which he resided when he entered the service; the battles, if any, in which he was engaged; and the country through which he marched.]

He hereby relinquishes every claim (f) whatever to a pension, or an annuity, except the present; and he declares that his name is not on the pension roll of any agency in any State, or (if any) only on that of the agency in the State of _____ [Signed.] A** B**.

Sworn to and subscribed the day and year aforesaid, before me, C** D**, J. P.

[And then will follow the certificate of the court.]

And the said court do hereby declare their opinion, (g) that the above named applicant was a revolutionary soldier, and served as he states. [Done in Court.]

I, _____, of the court of _____, do hereby certify (h) that the foregoing contains the original proceedings of the said court in the matter of the application of _____ for a pension.

In testimony whereof, I have hereunto set my hand and seal of office (i) this _____ day of _____, &c. C** C**, Clerk of Court.

[L.S.]

(a) The declarant must appear in open court, unless prevented from doing so by reason of bodily infirmity; in which case, the declarant will follow the rule laid down for his guidance.

(b) The declarant must make his declaration in the county where he resides. If he should fail to do so, he must assign a sufficient reason for not conforming to the rule.

(c) The age of the claimant must invariably be mentioned.

(d) The declarant must mention the period or periods of the war when he served.

(e) Every continental officer or soldier must give the name of the colonel under whom he served; otherwise, a satisfactory examination of the claim cannot be had. Every claimant must state, with precision, the length of his service, and the different grades in which he served, in language so definite as to enable the department to determine to what amount of pension he is entitled. In a case where the applicant cannot,

[DECLARATION 2.—In order to obtain the benefit of the act of Congress of June 7, 1832.]

STATE [Territory, or District] of _____, } ss.
County of _____,

On this _____ day of _____, personally appeared (a) in open court, before the court of _____, now sitting, A** B**, a resident (b) of _____, in the county of _____, and State [Territory, or District] of _____, aged (c) _____ years, who, being first duly sworn according to law, doth on his oath make the following declaration, in order to obtain the benefit of the act of Congress, passed June 7, 1832: That he entered the service of the United States under the following named officers, and served as herein stated:

[Here set forth the names and rank of the field and company officers; the day, (if possible,) and the month and year (d) when the claimant entered the service, and the time when he left the same; and if under more than one engagement, he must specify the particular periods, and the rank and names of his officers; the town, the county, and State in which he resided; when he entered the service; whether he was draughted, was a volunteer, or a substitute; the battles, if any, in which he was engaged; the country through which he marched; the continental regiments or companies with which he served; and the names of some of the regular officers whom he knew; together with such other particulars (e) as may be useful in the investigation of his claim; and also, if the facts be so, that he has no documentary evidence; and that he knows of no person, whose testimony he can procure, who can testify to his service.]

He hereby relinquishes (f) every claim whatever to a pension or annuity, except the present; and declares that his name is not on the pension roll of the agency of any State, or, if any, only on that of the agency of the State of _____ [Signed.] A** B**.

[And then will be annexed the following certificate:]

We, E** F**, a clergyman, residing in the _____, and F** E**, residing in [the same] _____, hereby certify, that we are well acquainted with _____, who has subscribed and sworn to the above declaration; that we believe him to be _____ years of age; that he is reputed and believed, in the neighborhood where he resides, to have been a soldier of the revolution; and that we concur in that opinion. E** F**.
F** E**.

Sworn and subscribed before me, the day and year aforesaid. C** D**, J. P.

[And then will follow the certificate of the court.]

And the said court do hereby declare their opinion (g) after the investigation of the matter, and after putting the interrogatories prescribed by the War Department, that the above named applicant was a revolutionary soldier, and served as he states. And the court further certifies, that it appears to them that E** F**, who has signed the preceding certificate, is a clergyman, resident in the _____, and that F** E** is a credible person; and that their statement is entitled to credit. [Done in Court.]

I, _____, clerk (h) of the court of _____, do hereby certify that the foregoing contains the original proceedings of the said court in the matter of the application of _____ for a pension.

In testimony whereof, I have hereunto set my hand and seal (i) of office this _____ day of, &c. C** C**,
[L. S.] Clerk of Court.

by reason of the loss of memory, state precisely how long he served, he should amend his declaration, by making an affidavit in the following words: "Personally appeared before me, the undersigned, a justice of the peace, &c., A B, who, being duly sworn, deposed and saith that, by reason of old age, and the consequent loss of memory, he cannot swear positively as to the precise length of his service, but, according to the best of his recollection, he served not less than the periods mentioned below, and in the following grades: For _____ year, _____ months, and _____ days, I served as a _____, and for such service I claim a pension: Or, For _____ months and _____ days, I served as a _____, and for such service I claim a pension."

It is important, in all cases, to determine with precision the period for which each applicant served, and the particular rank he held, as the law directs the pension to be paid according to the grade of the pensioner and the length of his service. The use of the phrase "about three or four months," is too definite, and all such qualifying expressions are objectionable. Some persons who apply for pensions merely state that they served two years in the militia, &c., without specifying the tours, the names of the officers, and other particulars respecting their service. This form of a declaration is highly objectionable. It must, in every case, be clearly shown under what officers the applicant served, the duration of each term of engagement, the particular place or places where the service was performed, that the applicant served with an embodied corps called into service by competent authority, that he was either in the field or in garrison, and, for

[4.]

Regulations respecting the payment of arrears to the children of deceased pensioners.

WAR DEPARTMENT, November 9, 1833.

In a case where the residence of all the children of a deceased pensioner cannot be ascertained, those who are known to be living must prove their relationship to the deceased before a court of record; they must show that the pensioner left no widow; that the children, who are in parts unknown, have not been heard of for at least one full year, and that exertions have been made, without success, to ascertain their residence. Their names must be given. The court must give a certificate containing the facts, and the clerk of the court must sign the same, and annex thereto his seal of office. In such a case, the amount due will be paid to those who are known to be living; and all that is due must be paid at one time.

In a case where there is no widow, and the children who survive reside at a considerable distance from each other, and it is difficult or impracticable to obtain information or powers of attorney from those who live remote from the pension agency, the amount due to each child may be paid, upon proper vouchers when demanded, without requiring all the children to make application at the same time.

LEW. CASS.

the time during which the service was performed, he was not employed in any civil pursuit."

(f) The law makes the relinquishment of every claim whatever to a pension or annuity, except the present, indispensable.

(g) The opinion of the court is always required to be appended to the declaration.

(h) And the clerk must give his certificate in every case.

(i) The clerk must affix his seal; and if it has no device or inscription by which it can be distinguished from any other seal, or if he has no public seal of office, the certificate of a member of Congress, proving the official character and signature of the certifying officers, should accompany the papers.

(j) *Proof of service.*—In a case where the name of the applicant is not found on the records of the department he must prove his service by two credible witnesses, who are required to set forth in their affidavits the time of the claimant's entering the service, and the time and manner of his leaving the same, as well as the regiment, company, and line to which he belonged. The magistrate who may administer the oaths must certify to the credibility of the witnesses; and the official character and signature of the magistrate must be certified by the proper officer, under his seal of office.

(k) This traditional evidence is indispensable in militia cases.

(l) If a witness cannot be found, the declarant must state the fact.

(m) The answers to the foregoing interrogatories, propounded by the court, must all be written, and sent to the department with the declaration.

¶ The notes from (a) to (i) are all equally applicable to the cases of militiamen, volunteers, and State troops. The proof required by rule, in note (j,) applies to continental troops only, or in militia cases in which muster rolls exist.

Mode of authenticating papers.—In every instance where the certificate of the certifying officer who authenticates the papers is not written on the same sheet of paper which contains the affidavit, or other papers authenticated, the certificate must be attached thereto by a piece of tape or narrow ribband, the ends of which must pass under the seal of office of the certifying officer, so as to prevent any paper from being improperly attached to the certificate.

[5.]

Testimony of two witnesses as to disability, in cases where commanding officers are dead.

WAR DEPARTMENT, *June 17, 1834.*

The rule of December 23, 1817, which requires the testimony of a commissioned officer to show the origin and nature of the corporeal disability of an applicant for a pension, may be dispensed with in a case where it is clearly shown that such evidence cannot be obtained, and where other satisfactory proof of disability can be obtained. In such a case, the following rules of evidence will be adhered to:

1. The applicant must make a declaration setting forth all the material facts in the case, and the surgeons must testify as the rule of December 23, 1817, directs.

2. He must prove, by persons of known respectability, that the officers mentioned by the claimant in his deposition are dead, or removed to such a distance as to render it impracticable to obtain their affidavits. The person or persons who may give such evidence must state particularly all the knowledge they may possess in relation to the death or removal of such officers.

3. In such a case as that mentioned in rule No. 2, the applicant must produce testimony of at least two credible witnesses, whose good character must be vouched for by some one known to this department. The witnesses must give a minute narrative of all the facts in relation to the matter, and it must be shown conclusively, by their testimony, that the disability of the claimant is to be ascribed solely to injury sustained while the claimant was in the discharge of military duty in the service of the United States. The witnesses must show how they acquired a knowledge of the facts set forth, and state in what capacity or grade they served.

The affidavits must be authenticated in the same manner prescribed by the rule of December 23, 1817.

LEWIS CASS.

[6.]

Rules of evidence adopted by the Treasury Department on the 28th July, 1832, relative to half pay due to Virginia revolutionary officers.

WAR DEPARTMENT, *June 2, 1835.*

Whereas the 4th section of the act of the 3d of March last, entitled "An act to continue the office of the Commissioner of Pensions," directs that the duties heretofore required of and performed by the Secretary of the Treasury, in relation to Virginia claims for revolutionary services, and deficiency of commutation, be transferred to the Department of War from and after the present month; and the Secretary of War having, by directions from the President of the United States, assigned those duties to

the Commissioner of Pensions, notice is hereby given to all concerned, that communications in relation to the claims arising under the act of the 5th July, 1832, entitled "An act to provide for liquidating and paying certain claims of the State of Virginia," will in future be addressed to said Commissioner. The following regulations, which were adopted by the Treasury Department on the 28th July, 1832, to govern the accounting officers of the treasury, will be adhered to in the settlement of the claims that may be presented at this department under the 3d section of the act of July 5, 1832:

1. The settlement to be confined to those cases of which a list has been furnished by the auditor of the State of Virginia, as containing the names of those officers reported by the board of officers in 1782 and 1784, (including part of Colonel Crockett's regiment,) whose claims for half pay have not been satisfied, nor prosecuted in court; and of those cases in which judgments have been obtained against, but not paid by, the State of Virginia.

2. That sufficient evidence be required as to the identity of the officer on the part of whom or of whose representatives the claim is presented, and that he is still living; or, if dead, of the period of his decease.

3. If the officer be dead, that sufficient proof be required of the existence of heirs and of legal representatives really and lawfully entitled to receive the amount due.

4. Where there are no executors, but administrators, and there are heirs living, that the assent of those heirs be had to the payment of the money to the administrator, or attorney at law, or in fact, who may present himself at the department, or that satisfactory reasons be assigned why such assent be not produced.

5. That administrators in all cases be required to satisfy the accounting officers whether there be or be not heirs living; and, if there be any living, to state their names and residence; and, if there be no heirs, to state the disposition to be made of the amount of the claim.

6. In the investigation of all those facts, the accounting officers will require the best proof the nature of the case will admit of, if in the possession of the party applying; and, if not, the want of such proof must be satisfactorily accounted for; in which case only secondary evidence will be admissible.

7. In all cases where claims are presented by executors, an authenticated copy of the will and probate must be produced.

8. No claim to be settled in favor of an assignee of a claimant.

9. Where payment is claimed by an attorney, the power of attorney must be subsequent to the passing of the law, and authorizing the attorney to act under that law.

JAMES L. EDWARDS.

[7.]

Rules of evidence established by the President, in widows' and orphans' claims, under the act of July 4, 1836.

WAR DEPARTMENT, July 9, 1836.

In order to carry into effect the act of Congress of the 4th of July, 1836, entitled "An act granting half pay to the widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States, in certain cases, and for other purposes," the following rules have been prescribed by the President of the United States, and adopted by the Secretary of War; and they are now published for the information of applicants under that law:

1. Applicants under the first section of the act must produce the best proof the nature of the case will allow as to the service of the deceased officer or soldier, the time when he died, and the complaint of which he died, and the supposed cause of his disease. It must be clearly shown in what company, and regiment or corps, he served, and the grade he held. Such proof must be had, either from the records of the War Department, the muster rolls, the testimony of commissioned officers, or the affidavits of persons of known respectability. From similar sources evidence must be derived as to the period and cause of the death of the officer or soldier.

2. The legality of the marriage, the name of the widow, with those of her children who may have been under sixteen years of age at the time of the father's decease, with the State or Territory and county in which she and they reside, should be established. The legality of the marriage may be ascertained by the certificate of the clergyman who joined them in wedlock, or the testimony of respectable persons having knowledge of the fact. The age and number of the children may be ascertained by the deposition of the mother, accompanied by the testimony of respectable persons having knowledge of them, or by transcripts from the parish registers, duly authenticated. The widow, at the time of allowing the half pay, or placing her on the list for it, must show that she has not again married, and must, moreover, repeat this at the time of receiving each and every payment thereof; because, in case her marrying again, the half pay to her ceases, and the half pay for the remainder of the time shall go to the child or children of the decedent. This may be done by the affidavits of respectable persons having knowledge of the case.

3. In cases where there are children and no widow, their guardian will of course act for them, establish their claims as prescribed in the foregoing regulations, and receive their stipends for them.

4. Applicants under the second section of the law will make a declaration before a court of record, setting forth, according to the best of her or their knowledge or belief, the names and rank of the field and company officers, the day (if possible) and the

month and the year when the claimant's husband or father (as the case may be) entered the service, and the time when he left the same; and, if under more than one engagement, the claimant must specify the particular periods, and the rank and names of the officers under whom the service was performed; the town or county and State in which the claimant's husband or father resided when he entered the service—whether he was draughted, was a volunteer or substitute; the battles, if any, in which he was engaged; the country through which he marched, with such further particulars as may be useful in the investigation of the claim; and, also, if the fact be so, that the claimant has no documentary evidence in support of the claim.

5. The same description of proof as to the relationship of the claimant to the deceased officer or soldier will be required as the rule under the first section points out.

6. Claimants under the third section of the law must not only produce such proof as the foregoing regulations direct in relation to widows' claims, but they must, in all cases, as an indispensable requisite, show when they were legally married to the deceased officer or soldier on account of whose services the claim is presented, and that the marriage took place before the last term of service of the husband had expired. They must also prove that they were never afterwards married.

7. In a case where the service of the deceased officer or soldier is clearly proved by record or documentary evidence, or the affidavit of a commissioned officer, showing the grade and length of service of the deceased, the particulars in relation to the service are not required to be set forth in the claimant's declaration, except so far as to show that the claimant or claimants is or are the widow or children of the deceased.

8. The claimant must, in every case where there is no record or documentary proof of the revolutionary service of the deceased officer or soldier, produce the testimony of at least one creditable witness. Traditionary evidence will be deemed useful in every such case.

9. Applicants unable to appear in court, by reason of bodily infirmity, may make the declaration before required before a judge or justice of a court of record of the county in which the applicant resides; and the judge or justice will certify that the applicant cannot, from bodily infirmity, attend the court.

10. Whenever any official act is required to be done by a judge or justice of a court of record, or by a justice of the peace, the certificate of the secretary of State, or of the Territory, or of the proper clerk of the court or county, under his seal of office, will be annexed, stating that such a person is a judge or justice of a court of record, or a justice of the peace, and that the signature annexed is his genuine signature.

11. The widows of those who served in the navy, or as Indian spies, will produce proof, as nearly as may be, conformably to the preceding regulations, and authenticated in a similar manner,

with such variations as the different nature of the service may require.

12. The form prescribed for claimants under the third section of the act will be observed by every other description of claimants, so far as the same may be applicable to their cases. The judge or justice who may administer an oath must, in every instance, certify to the credibility of the affidavit.

13. In every case in which the deceased officer or soldier was a pensioner, the fact should be so stated; and the deceased pensioner so described as to enable the department to refer immediately to the evidence upon which he was pensioned, and thus facilitate the investigation of the claim of his widow or children.

JAMES L. EDWARDS.

[The following are the forms of declarations for widows whose husbands died in the service of the United States, as adopted by the Pension Office in pursuance of the foregoing regulations. The DECLARATION 1, is for widows' pensions under the act of the 4th July, 1836. The DECLARATION 2, is for widows' pensions under the same act as amended or explained by the act of the 3d March, 1837. There was no form prescribed for, or description of, the evidence required to be annexed to DECLARATION 1; but it will be easy for the applicant to supply it, according to the foregoing regulations; and it will probably, in most cases, be similar to the evidence annexed to DECLARATION 2. Nor was there any form prescribed for the declaration of orphans, or of guardians in their behalf; but that, also, is easily supplied according to the foregoing regulations where they relate to that subject. The notes at the end of these forms may be considered as a supplement to the foregoing regulations, where they should perhaps more properly have been inserted in the original.—Eds.]

[FOR WIDOWS—DECLARATION 1.—In order to obtain the benefit of the third section of the act of Congress of the 4th July, 1836.]

STATE [TERRITORY, OR DISTRICT] OF
County of

, } ss.

On this day of , personally appeared before the of the A** B**, a resident of , in the county of , and State [Territory, or district] of , aged years, who, being first duly sworn according to law, doth, on her oath, make the following declaration, in order to obtain the benefit of the provision made by the act of Congress, passed July 4, 1836: That she is the widow of , who was a [Here insert the rank her husband held in the army, navy, or militia, (as the case may be,) and specify the service performed, as directed in rule No. 4 of the regulations.] She further declares, that she was married to the said on the day of , in the year seventeen hundred and ; that her husband, the aforesaid , died on the day of , and that she has remained a widow ever since that period, as will more fully appear by reference to the proof hereto annexed. [Signed.] A** B**.

Sworn to and subscribed, on the day and year above written, before me,

C** D**, J. P.

[In a case where the claimant has married after the decease of the husband for whose services she may claim the pension, it cannot, under the explanatory act of March 3, 1837, be withheld on account of a subsequent marriage, provided she was a widow on the 4th July, 1836. The latter part of the 6th rule of the regulations of the 9th July, 1836, is not, of course, applicable to such a case. The facts in relation to the marriage of the last husband, and his death, should be fully set forth in the claimant's declaration. The following is the form of DECLARATION and corroborating evidence, in such a case. This modification of the foregoing, in cases of subsequent marriage, was made and pre-

scribed by the Department on the 15th March, 1837. Also, on the 10th of August, 1848, the Commissioner of Pensions extended the application of rules marked 1, 2, and 3, in the foregoing regulations of the 9th July, 1836, to all claims of widows or orphans for pensions whose husbands or fathers may have died in the late war with Mexico.—*Eds.*]

[FOR WIDOWS—DECLARATION 2.—In order to obtain the benefits of the third section of the act of 4th July, 1836, and of the first section of the act of 3d March, 1837.]

STATE [TERRITORY, OR DISTRICT] OF , }
County of , } ss.

On this day of , personally appeared before the of the A B, a resident of , in the county of , and State [Territory or district] of , aged years, who, being first duly sworn, according to law, doth, on her oath, make the following declaration, in order to obtain the benefit of the provision made by the act of Congress passed July 4, 1836, and the act explanatory of said act passed March 3, 1837: That she was married to E F, who was a [Here insert the particulars respecting the service of the deceased husband for whose services she may claim a pension, as directed in rule No. 4, of the foregoing regulations of July 9, 1836.] She further declares, that she was married to the said E F on the day of , in the year seventeen hundred and ; that her husband, the aforesaid E F, died on the day of , that she was afterwards married to H B, who died on the day of ; and that she was a widow on the 4th of July, 1836, and still remains a widow, as will more fully appear by reference to the proof hereto annexed.

[Signed.] A*** B***.

Sworn to and subscribed, the day and year above written, before me.

C*** D***, J. P.

[Extract from the record of marriages, &c.]

[Here make the extract, but instead of copying the figures write them out in words.]

[Then add the following certificate:]

I certify that the above is a true copy of the record, with the exception of the date and figures, which are expressed in the record in fair legible date and figures as follows, [repeating them here as in the record:]

C** C***, Clerk of .

[Then add the following oath:]

I, C** C***, above named, depose and say, that I hold the office of in the county, town, and State aforesaid, and that the above is a true extract from the records of said , with the exception above named, as certified by me.

C** C***, Clerk of the

Sworn before me, C** D***, J. P.

[Then will follow the certificate of the proper officer, under his seal of office, showing that C** D*** is a justice of the peace, commissioner of deeds, notary public, or other officer duly authorized by law to administer oaths.]

[8.]

Rules to be observed, and forms of evidence to be taken, in cases where pension certificates are illegally withheld.

[WITHOUT DATE.]

The pensioner must state, in its place in the affidavit here appended, the amount of pension to which he is now entitled, which, in some cases, varies from that in the original certificate; and he must sign and make oath to the affidavit.

The oath may be administered by any officer properly qualified to take an affidavit.

Such officer will state, in the place indicated in his certificate here appended, the evidence of identity of the affiant or pensioner; whether personal knowledge, or the affidavits of respectable persons—giving their names. [J. L. E.]

[*Affidavit of the Pensioner.*]

STATE OF _____ }
county, } ss:

Be it known, that before me, _____, a justice of the peace in and for the county aforesaid, personally appeared _____, and made oath, in due form of law, that he is the identical _____ named in an original pension certificate now illegally withheld by _____

[*Here state the facts respecting the detention of the pension certificate.*]

that he is entitled to a pension of _____ dollars per month on account of the wounds and disabilities received, or of services rendered to the United States during the war; that he served in Captain _____'s company of _____, in the _____ regiment; that he now resides in _____, and has resided there for the space of _____ years past; and that, previous thereto, he resided in _____

[Signed.] A** B**.

Sworn and subscribed this _____ day of _____, 18 ____ C** D**, J. P.

[*Certificate of the officer who administers the oath.*]

STATE OF _____ }
county, } ss:

Conformably to the regulations of the War Department of the 27th of October, 1832, I, _____, a magistrate in the county above named, do hereby certify that I have the most satisfactory evidence, viz: _____

[*Here state the evidence of identity, whether personal knowledge, or the affidavit of respectable persons.*]

that _____, who this day appeared before me to take the oath of identity, is the identical pensioner he declares himself to be in the annexed affidavit; and I am also satisfied that the statement made by him in relation to the pension certificate is true.

Given under my hand at _____, the day and year above written.

C** D**, J. P.

[*Certificate and seal of the Clerk of the Court.*]

I, _____, clerk of the court of _____ county, certify that _____ is a magistrate as above, and that the foregoing certificate, purporting to be his, is genuine.

In testimony whereof, I have hereunto affixed my seal of office, and subscribed my name, this _____ day of _____, in the year _____

[L. s.]

C** C**.

Clerk of the court of _____ county.

[9.]

Regulations for the use of applicants for an increase of invalid pension.

[WITHOUT DATE.]

No application for an increase of an invalid pension will be examined, unless the proof be first presented to the pension agent where the payment is made. He will forward the "surgeons' affidavit," the "pension certificate," &c., to the War Department. [Now to the Department of the Interior.]

If the applicant was pensioned on account of a wound received previous to the late war, he should be examined by two surgeons, under a commission issued by a judge of one of the United States courts, in order to obtain an increase of his pension.

The magistrate who may administer the oath to the surgeons must certify that they are respectable in their professions, or believe, on the information of others, that they are so.

And the official character and signature of the magistrate must be certified by a proper officer under his seal of office.

If the claimant be within *thirty miles* of an army surgeon, he must obtain his testimony.

The oath may be made before any officer duly authorized to administer oaths. [J. L. E.]

[*Surgeons' affidavit for an increase of Invalid Pension:*]

It is hereby certified that _____, formerly a _____ of Captain _____'s company, in the _____ regiment of _____; who it appears by the accompanying (a) _____, was placed on the pension roll at the rate of _____ dollars per month, on account, as he states, of having received a (b) _____ while in the line of his duty, and in the said service, on or about the _____ day of _____, in the year _____, at a place called _____, in the State [or Territory] of _____, is not only still disabled in consequence of the said injury, but, in my opinion, is entitled to more than he already receives as a pensioner, being disabled to a degree amounting to (c) _____ of a total disability. E** F***, } Surgeons.
G** H***, }

Sworn to and subscribed before me, C** D***, J. P.

[*Here should follow the certificate of the magistrate, that the surgeons are respectable in their profession.*]

[*And here the Clerk of Court, Secretary of State, or other officer, should certify, under his seal of office, the official character of the magistrate who administered the oath.*]

[10.]

Regulations for the use of an applicant for the renewal of a lost pension certificate.

[WITHOUT DATE.]

A pensioner having lost his (or her) pension certificate, must make application according to the subjoined FORM.

(a) The pension certificate issued from the War Office, which must be returned to the Commissioner of Pensions.

(b) Here give a particular description of the wound, injury, or disease, and specify in what manner it has affected the applicant, so as to produce disability in the degree stated; and show its origin and progress.

(c) The blank in the last line is to be filled up with the proportional "degree" of disability; for example: "three-fourths," "one-half," "one-third," &c., or "totally," as the case may be.

Mode of authenticating papers.—In every instance where the certificate of the certifying officer who authenticates the papers is not written on the same sheet of paper which contains the affidavit, or other papers authenticated, the certificate must be attached thereto by a piece of tape or narrow riband, the ends of which must pass under the seal of office of the certifying officer, so as to prevent any paper from being improperly attached to the certificate. [This instruction has been repeated with every form issued on detached circulars, but need not be so repeated in this compilation, it being sufficient to regard it as a general rule; it will therefore be omitted in the sequel.—Eds.]

[It may be here observed, in relation to note (c,) that it seems to authorize the modern practice of restricting the fractions short of total disability, to one-third, one-half, and three-fourths. Whereas, the olden rule, in proceedings before the courts, was, to designate all grades of appreciable disability, from as low as one-eighth up to seven-eighths of a total disability; for example, see the 1st section of the act of 20th April, 1796, p. 34, and the rates of pay, or disability, throughout that act, and more particularly within a few lines of the bottom of page 37.—Editors.]

The oath of the pensioner must be taken before a duly qualified magistrate, whose official character and signature must be properly authenticated.

The pensioner's oath must be supported by another person as to identity, who must swear that he well knows him to be the same person described in the affidavit.

The magistrate must certify that the deponent is a person of veracity. And his official character must be authenticated by the certificate of the proper officer, under his seal of office, setting forth that the officer before whom the affidavit may be made is a justice of the peace, judge, or notary public, (as the case may be.)

In every case where the clerk of the court or other certifying officer has no public seal of office, the certificate of a member of Congress, proving the official character and signature of the certifying officer, should be sent with the papers.

When a person acting as an agent or attorney for a pensioner loses the certificate, the affidavit of that person is also required, which must be authenticated as above.

No attention will be given to applications from persons who act as agents, unless they are known at the War Department, or are vouched for as respectable persons by some one who is known to the Department.

[J. L. E.]

Form of application for a new certificate of pension.

County of , ss:

On this day of , 18 , before me, the subscriber, a justice of the peace for the said county of , personally appeared , who, on his oath, declares that he is the same person who formerly belonged to the company commanded by Captain , in the regiment commanded by Colonel , in the service of the United States; that his name was placed on the pension roll of the State of ; that he received a certificate of that fact under the signature and seal of the Secretary of War,* which certificate, on or about the day of 18 , at or near he

[Signed.] A** B***.

Sworn and subscribed to before me, the day and year aforesaid.

C** D***, J. P.

[Here should be annexed the testimony of some respectable person to identify the pensioner.]

[Here the magistrate must certify that the deponent is a person of veracity.]

[And here the Clerk of Court, Secretary of State, or other officer, must certify, under his seal of office, the official character of him who administered the oaths.]

[11.]

Regulations for the use of applicants for a transfer of payment of their pensions.

[WITHOUT DATE.]

A pensioner desiring to have the payment of his pension trans-

* If the pensioner has never received a formal certificate, but has drawn his pension on a mere notification, (as was the case, in a few instances, many years ago,) he should leave out the words in *italics*, and insert, in lieu thereof, "but has never received a formal certificate, and now wishes to obtain one."

The last four blanks are left for the applicant to set forth the time, place, and manner, of the loss or destruction of the original certificate.

ferred to another agency, must make his application according to the subjoined form.

The oath of the applicant must be taken before a duly qualified magistrate, whose official character and signature must be certified by the proper officer, under his seal of office. The county clerk, secretary of State, or some other officer, will certify under his seal of office, that the officer who administered the oath is a justice of the peace, judge, mayor, alderman, or notary public, (as the case may be,) and that the signature purporting to be his is genuine.

The oath must be supported by the testimony of some respectable person, as to the pensioner's identity. He must swear that the person who has taken the oath is the person described in the affidavit. The magistrate must certify that the witness is a person of veracity, and the affidavit must also be authenticated in the manner above directed.

In every case where the clerk of the court, or other certifying officer, has no public seal of office, the certificate of a member of Congress, proving the official character and signature of the certifying officer, should be sent with the papers. [J. L. E.]

Form of application for a transfer of pension.

County of _____, ss:
On this _____ day of _____, 18____, before me, the subscriber, a justice of the peace for the said county of _____, personally appeared _____, who, on his oath, declares that he is the same person who formerly belonged to the company commanded by Captain _____, in the regiment commanded by Colonel _____, in the service of the United States; that his name was placed on the pension roll of the State of _____, from whence he has lately removed; that he now resides in the State [District or Territory] of _____, where he intends to remain, and wishes his pension to be there payable in future. The following are his reasons for removing from _____ to _____ [Signed.] A** B***.

Sworn and subscribed to before me, the day and year aforesaid.

C** D***, J. P.

[Here should be annexed a certificate, to identify the pensioner, by some respectable person.]

[Here the magistrate must certify that the witness is a person of veracity.]

[And here the Clerk of Court, Secretary of State, or other officer, must certify, under his seal of office, the official character of him who administered the oaths.]

[12.]

Circular instructions to the pension agents respecting payments in bank notes.

PENSION OFFICE, June 10, 1836.

SIR: The instructions contained in the 2d section of the act of April 14, 1836, of which the following is a copy, must be strictly adhered to in making payments to pensioners:

"SEC. 2. And be it further enacted, That hereafter, no bank notes of less denomination than ten dollars, and that from and after the third day of March, anno domini eighteen hundred and thirty-seven, no bank note of less denomination than twenty dol-

lars, shall be offered in payment in any case whatsoever in which money is to be paid by the United States, or the Post Office Department; nor shall any bank note of any denomination be so offered, unless the same shall be payable and paid on demand in gold or silver coin at the place where issued, and shall not be equivalent to specie at the place where offered, and convertible into gold or silver upon the spot, at the will of the holder, and without delay or loss to him: *Provided*, That nothing herein contained shall be construed to make any thing but gold or silver a legal tender by any individual, or by the United States."

J. L. EDWARDS.

[13.]

Rules of evidence prescribed by the President, for granting widows pensions under act of 7th July, 1838.

PENSION OFFICE, July 17, 1838.

The following rules, prescribed by the President of the United States, and adopted by the Secretary of War, in order to carry into effect the act of Congress of the 7th July, 1838, entitled "An act granting half pay and pensions to certain widows," are published for the information of applicants under that law:

1. Applicants must produce the best proof the nature of the case will allow as to the service of the deceased officer or soldier, and the time when he died. It must be clearly shown in what troop or company, and regiment or corps, he served, and the grade he held. Proof as to service must be had, either from the records of the War Department, the muster rolls, the testimony of commissioned officers, or the affidavits of persons of known respectability. Every applicant will make a declaration according to the subjoined form, before a court (a) of record, setting forth, according to the best of her knowledge or belief, the name and rank of the person on account of whose service the claim is presented; the day, month, and year, (if possible,) when he entered the service, and the time when he left the same; and, if under more than one engagement, the claimant must specify the particular periods, and the rank and name of the officers under whom the service was performed; the town or county, and State, in which he resided when he entered the service; whether he was draughted, was a volunteer, or a substitute; the battles, if any, in which he was engaged; the country through which he marched; with such further particulars as may be useful in the investigation of the claim; and also, if the fact be so, that the claimant has no documentary evidence in support of the claim. From the best sources of information evidence must be derived as to the period of the death (b) of the officer or soldier.

(a) The declarant of the widow who claims must be made, in all cases, in open court, unless she is prevented, by bodily infirmity, from appearing before the court.

(b) It must in all cases be shown in what year the husband died. The testimony on this point must be positive, and the language must be free from all ambiguity.

2. The legality of the marriage, and the time when it took place, must be clearly established; and it must also be shown that the widow was never afterwards married. Record proof, as to the marriage, is always required, whenever it can be obtained. In a case where the town, county, parish, church, or family records afford no proof as to the period when the marriage took place, the fact must be established by the testimony of one or more respectable persons, whose credibility must be certified by the officer who may administer the oath. And, in order to prevent any mistake or improper use that may be made of the affidavit of the officer who may have the custody of records, from which he may make transcripts of the record in relation to a marriage, the officer who may give his affidavit, will, instead of copying the figures contained in the record, certify, "that it is a true copy of the record, with the exception of the date, which is expressed on the record in fair legible figures as follows:" [*Here copy the day, month, and year, in letters and figures, in exact conformity with the original. Then let him add the following words:*]

"I, C** C**, above named, depose and say, that I hold the office of _____ in the county, town, and State aforesaid, and that the above is a true extract from the records of said _____, with the exception above named, as certified by me.

C** C**, Clerk of the
Sworn before me, C** D**, J. P."

And then will follow the certificate of the proper officer, under his seal of office, as to the official character and signature of the magistrate who may administer the oath. Where no record proof exists, other than the family record, the original record must be produced and sworn to by the person in whose possession it has been kept. (c)

3. In a case where the service of the deceased officer or soldier is clearly proved by record or documentary evidence, or the affidavit of a commissioned officer, showing the grade and length of service of the deceased, the particulars in relation to the service are not required to be set forth in the claimant's declaration; but she must swear, in positive terms, that she is the widow of the person whose service is thus proved. And no claim whatever can be sustained without positive proof of service.

4. In every case in which the deceased officer or soldier was a pensioner, the fact should be so stated, and the deceased pensioner so described as to enable the Department to refer immediately to the evidence upon which he was pensioned, and thus facilitate the investigation of the claim of the widow.

5. Applicants unable to appear in court, by reason of bodily infirmity, may make the declaration before required before a judge

(c) The family record must be sent to the Pension Office, if there be no other record, accompanied by the oath of the person in whose possession it has been kept. The person who may swear to the genuineness of the record should give the name of the person in whose handwriting the record was made.

or justice (d) of a court of record in the county in which the applicant cannot, from bodily infirmity, attend the court.

6. Whenever any official act is required to be done by a judge or justice of a court of record, or by a justice of the peace, the certificate of the Secretary of the State or Territory, or of the proper officer or clerk of the court or county, under his seal of office, will be annexed, stating that such a person is a judge, or a justice of the peace, and that the signature annexed is his genuine signature.

7. The widows of those who served in the navy, or as Indian spies, will produce proof, as nearly as may be, conformably to the preceding regulations, and authenticated in a similar manner, with such variations as the different nature of the service may require.

J. L. EDWARDS.

DECLARATION.—In order to obtain the benefit of the act of Congress of 7th July, 1838, entitled "An act granting half pay and pensions to certain widows."*

STATE, [TERRITORY, OR DISTRICT] OF
County of

} ss.

On this day of , personally appeared before the of the A** B**, a resident of in the county of , aged years, who, being first duly sworn according to law, doth, on her oath, make the following declaration, in order to obtain the benefit of the provision made by the act of Congress passed July 7, 1838, entitled "An act granting half pay and pensions to certain widows:" That she is the widow of , who was a [Here mark the rank the husband held in the army, navy, or militia, as the case may be, and specify the service performed, as directed in rule numbered 1 of these regulations.]

She further declares that she was married to the said on the day of , in the year seventeen hundred and ; that her husband, the aforesaid , died on the day of ; that she was not married to him prior to his leaving the service, but the marriage took place previous to the first of January, seventeen hundred and ninety-four, viz., at the time above stated.

[Signed.] A** B**.

Sworn to and subscribed on the day and year above written, before me,

C** D**, J. P.

[14.]

Regulations and forms to continue the pensions of certain widows of revolutionary soldiers under the act of 17th June, 1844.

PENSION OFFICE, June 25, 1844.

In order to carry into effect the act of June 27, 1844, (p. 207, *ante*.) those persons who have been pensioned under the law of March 3, 1843, (p. 204, *ante*.) will not be required to send a new declaration to this office. They will merely apply to the agent

(d) A declaration before a justice of the peace cannot be admitted as evidence.

* [It will be perceived that the corroborating evidence usually annexed to the *declarations* and other *forms*, heretofore, together with the instructions on the "mode of authenticating papers," were not annexed to the above declaration by the late Commissioner of Pensions; but they are sufficiently described and enumerated in the instructions and regulations prefixed to it, from 1 to 7, and in like forms preceding it, to be easily supplied and annexed to the declarations that may be presented by applicants under the act of July 7, 1838. The same remarks will apply to other forms of widows' declarations in the sequel.—*Editors.*]

for paying pensions at the place where they have heretofore been paid, and comply with the instructions from the office of the Second Comptroller, a copy of which is subjoined.*

Many persons, however, will be entitled to pensions under the act of June 17, 1844, who have not been, or cannot be, pensioned under the acts of July 7, 1838, and March 3, 1843, by reason of the proviso in the act of April 30, 1844, entitled "An act making appropriations for the payment of revolutionary and other pensioners of the United States, for the fiscal year ending on the 30th June, one thousand eight hundred and forty-five," which declares "that no pension shall hereafter be granted to a widow for the same time that her husband received one." In all cases in which the husband was a pensioner, the widow's pension will commence on the day of his death, unless he died before the 4th of March, 1836, or between the 4th of March, 1841, and 4th of March, 1843. If he died between the two last dates, the widow's pension will begin on the 4th of March, 1843; and if he died previous to March 4, 1836, the widow will be entitled to the whole of the pension allowed, under the acts of 1838, 1843, and 1844, as if the act of April, 1844, had not passed.

No person can be pensioned under either of the aforementioned acts, who has not produced such proof as the regulations point out for claimants under the law of July 7, 1838; and every applicant will be careful in her declaration to set forth the particular law under which she claims.

J. L. EDWARDS.

SECOND COMPTROLLER'S OFFICE, *June 25, 1844.*

SIR: As the "Act to continue the pensions of certain widows," passed the 17th June instant, revives and extends the act granting pensions to the widows of certain revolutionary soldiers, approved the 3d day of March, 1843, it does not appear to me that any thing further is necessary to entitle a widow who was inscribed on the pension list under the act of 1843, to a continu-

*[The instructions and forms above, appended by Commissioner Edwards, as prescribed by the Second Comptroller, were ex-official, or beyond the authority of the Comptroller, and derived their authority and force solely from their adoption by the Commissioner, and the tacit acquiescence of the Secretary of War; inasmuch as the legal authority of the Comptroller only applies to instructions and forms of disbursing officers in keeping and stating their accounts for settlement at the Treasury, which include pension agents' accounts, but not their initiatives, in the form of applications for pensions, or the continuance of pensions. This is the first, and a solitary instance of the kind. Those instructions and forms prescribed by the Comptroller, which will be found in the sequel, relate exclusively to his legitimate sphere of accounting, and prescribing the regulations and forms thereof, with the approbation of the Secretary of the Treasury. And even, beyond this, it may be well questioned whether the Commissioner did not, or would not, go too far in delegating the power to the *pension agents* to continue persons on the pension rolls under new or subsequent laws, in lieu of requiring a presentation of their memorial to the Pension Office, praying the continuation of their pension under the authority of the act specified, and, upon granting a new certificate of such continuance, notifying the pension agent of the same, as is practised in the

ance of pension by virtue of the act of June 17, 1844, except to produce proof of identity.

Under former laws, the proof has consisted of the oath of the pensioner, that she is the identical person named in the original certificate in her possession, a copy of which certificate was required to be set out in the oath.

Under the law of June, 1844, the pensioner should be required to make oath that she is the identical person who drew a pension under the act of March, 1843, but she cannot set out a copy of the certificate granted under the latter act, as the certificates were required to be surrendered upon the last payment of the pension which became due under that act.

I have prepared a form, a copy of which is herewith transmitted, which, when filled up and properly executed, will, in my judgment, be a sufficient voucher on which the pension agent may pay such pensioners as are on the rolls of their respective agencies, under the act of March 3, 1843.

As widows, who were never placed on the pension list prior to the act of June, 1844, whose claims have subsequently been admitted, will be furnished with pension certificates from the War Department, *they* will be required to set out a copy of their certificates, in the oath of identity, agreeably to the old forms.

ALBION K. PARRIS,

Comptroller.

J. L. EDWARDS, Esq.

[Widow's application and oath of identity to continue her pension under the act of 17th June, 1844.]

STATE OF

, COUNTY—ss.

Be it known, That before me, , in and for the county aforesaid, personally appeared and made oath in due form of law, that she is the identical person who drew a pension under the act of the 3d of March, 1843, on account of the revolutionary service of her husband, the late [*here give the name of the husband*] at the rate of \$ per annum; that she now makes this affidavit for the purpose of drawing a pension under the act of Congress passed on the 17th of June, 1844, entitled "An act to continue the pensions of certain widows;" that she has not intermarried, but continues to be a widow; that she now resides in , in the county of , and State of , and has resided there for the space of years past; and that previous thereto she resided in

[Signed.] A** B***.

Sworn and subscribed this day of , 184 .
In presence of C** D**, J. P.

I certify that the above-named affiant is personally known to me, and that she is the same individual who drew a pension as stated by her in the foregoing affidavit.

C** D***, J. P.

office, on the like subject of the continuance of pensions to widows, (sequel,) which seems sufficiently decisive of the question.

This authority, however, delegated to the pension agents, seems to have superseded the like forms of proceeding at the Pension Office in relation to the continuance of the pensions of the widows of soldiers and military officers, the absence of which gave as much vain effort in quest of them, until, by casualty, we fell in with this loose sheet, from which the above are copied, which explained and supplied the chasm, as well as it might, though the whole subject was entirely overlooked in the late Commissioner's very defective edition of the instructions and forms of the office in relation to this subject.—*Editors.*]

[Power of attorney to receive her pension.]

Know all men by these presents, That I, _____, of _____, in the county of _____, and State of _____, a revolutionary pensioner of the United States, do hereby constitute and appoint _____, of _____, in the county of _____ and State of _____, my true and lawful attorney, for me, in my name, to receive from the agent of the United States for paying pensions in _____, my pension from the _____ day of _____, 18____, to the _____ day of _____, 18____.

Witness my hand and seal, this _____ day of _____, 18____. [Signed.] A** B***.

Sealed and delivered in presence of _____

C** D***, J. P.

[Acknowledgment of the power of attorney.]

STATE OF _____, COUNTY—ss.

Be it known, That on the _____ day of _____, 18____, before the subscriber, a _____ in and for said county, personally appeared _____, above named, and acknowledged the foregoing power of attorney to be her act and deed. In testimony whereof I have hereunto set my hand, the day and year last above mentioned.

C** D***, J. P.

[Oath of disinterestedness of attorney.]

STATE OF _____, COUNTY—ss.

Be it known, That on the _____ day of _____, 18____, before me, a _____, in and for said county, duly authorized by the laws of said State to administer oaths, personally appeared _____, the attorney named in the foregoing power of attorney, and made oath that he had no interest whatever in the money he is authorized to receive, by virtue of the foregoing power of attorney, either by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been so disposed of to any person whatever.

[Signed.] _____, Attorney.

Sworn and subscribed the day and year last above mentioned.

C** D***, J. P.

[15.]

Instructions and form of declaration to obtain the benefit of the act of Congress of 2d February, 1848, entitled "An act making further provision for surviving widows of soldiers of the revolution."

PENSION OFFICE, *March 9, 1848.*

In order to carry into effect the act of Congress renewing the pensions of widows under the act of February 2, 1848, the applicant who may claim a pension must make a declaration, under oath, before some magistrate in the county where she resides, which declaration must be duly authenticated. The official character and signature of the magistrate must be certified by the proper officer under his seal of office, and the magistrate must certify that the declarant is personally known to him.

It will be perceived that the act of the 2d February, 1848, provides as well for widows of officers and soldiers of the revolution who may hereafter die, as for those who have already died. Many widows, therefore, will be entitled to the provisions of the act of 1848, who have not drawn, or been entitled to, any pension under any former law. They will vary their declarations to con-

form to the circumstances of their cases. If their husbands have been pensioned, they will state the fact, with such particulars in relation to his residence, and amount of pension, as the following form directs.

If neither the applicant nor her husband has been pensioned, she will be required to make such proofs as the regulations require under the act of the 7th July, 1838.

J. L. EDWARDS.

Widows declaration under act of 2d February, 1848.

STATE [TERRITORY, OR DISTRICT] OF
County of ,

} ss.

On this day of personally appeared before the of the A** B**, a resident of , in the county of , aged years, who, being first duly sworn according to law, doth on her oath make the following declaration, in order to obtain the benefits of the provision made by the act of Congress, passed on the 2d February, 1848, granting pensions to widows of persons who served during the revolutionary war. That she is the widow of , who was a [Here insert the rank the husband held in the army, navy, or militia, as the case may be, and the regiment, corps, or vessel, in which he served, and the annual amount of the pension which she received under the act of 17th June, 1844.] She further declares that she is still a widow.

[Signed.] A** B**.

Sworn to and subscribed on the day and year above written, before me,

C** D**, J. P.

[16.]

Instructions and form of declaration for the use of widows in order to obtain the benefits of the act of the 21st of July, 1848.

PENSION OFFICE, August 21, 1848.

The following regulations have been adopted by the Secretary of War, with the approbation of the President of the United States, for carrying into effect the provisions of the act of the 21st July, 1848, entitled "An act amending the act entitled 'An act granting half pay to the widows or orphans, where their husbands and fathers have died of wounds received in the military service of the United States,' in cases of deceased officers and soldiers of the militia and volunteers, passed July fourth, eighteen hundred and thirty-six."

1. All applicants are required to show, either by the official certificate or testimony of a commissioned officer, or the muster or pay rolls, or some record evidence from the Adjutant General's Office, that the deceased officer or soldier, on account of whose service the pension is claimed, died of wounds received, or from disease contracted while in the line of his duty, and that he served either in Mexico, or at some post or station on the borders of Mexico. If he did not die in the service, it must be shown that he died while on his return to his usual place of residence in the United States, after having received a discharge upon a surgeon's certificate of disability incurred from wounds received or disease contracted while in the line of duty, or while on his march to join

the army in Mexico, or at some post or station on the borders of Mexico.

2. The legality of the marriage, the name of the widow, with those of her children, who may have been under sixteen years of age at the time of the father's decease, with the State or Territory, and county in which she and they reside, should be established. The legality of the marriage may be ascertained by the certificate of the clergyman who joined them in wedlock, or the testimony of respectable persons having knowledge of the fact. The age and number of the children may be ascertained by the deposition of the mother, accompanied by the testimony of respectable persons having knowledge of them, or by transcripts from the parish register, duly authenticated. The widow, at the time of allowing the half pay, or placing her on the list for it, must show that she has not again married; and must, moreover, repeat this at the time of receiving each and every payment thereof; because, in case of her marrying again, the half pay to her ceases, and the half pay for the remainder of the time shall go to the child or children of the deceased widow. This may be done by the affidavits of respectable persons having knowledge of the case.

3. In cases where there are children, and no widow, their guardian will of course act for them, and establish their claims, as prescribed in the foregoing regulations, and receive their stipends for them.

4. The credibility of the witness must in every case be certified by the magistrate who may administer the oath; and the official character and signature of the magistrate must be certified by the proper officer, under his seal of office.

5. In every case the applicant, if a widow, must make a declaration according to the form annexed. If there be no widow, and the claim is made on behalf of orphan children, there must be a guardian appointed to act for them, and he must make a declaration, varying the form to suit the case.

J. L. EDWARDS.

Widows' declaration under the act of the 21st of July, 1848.

STATE [Territory, or District] of _____ } ss.
County of _____ ,

On this _____ day of _____, personally appeared before me _____ of the _____
A** B***, a resident of _____ in the county _____, and State [Territory, or Dis-
trict] of _____, aged _____ years, who, being first duly sworn according to law, doth on
her oath make the following declaration, in order to obtain the benefit of the provision
made by the law of the United States, passed on the 21st of July, 1848: That she is the
widow of _____, who was a _____ in the _____ regiment of United
States _____; that she was married to the said _____ on the _____ day
of _____, in the year eighteen hundred and _____; that her husband, the afore-
said _____, died on the _____ day of _____, at _____, in
sequence of _____, and that she has remained a widow ever since that period,
as will more fully appear by reference to the proofs hereto annexed.

[Signed.] A** B***.

Sworn to and subscribed on the day and year above written, before me,

C** D***, J. P.

[17.]

Instructions and form of declaration for the use of widows in order to obtain the benefit of the act of the 29th of July, 1848.

PENSION OFFICE, *August 31, 1848.*

The following rules of evidence will be observed under the law of the United States of the 29th July, 1848, entitled "An act for the relief of certain surviving widows of officers and soldiers of the revolutionary army.

1. Applicants must produce the best proof the nature of the case will allow, as to the service of the deceased officer or soldier, and the time when he died. It must be clearly shown in what troop or company, and the regiment or corps, he served, and the grade he held. Proof as to service must be had, either from the records of the War Department, the muster rolls, the testimony of commissioned officers, or the affidavits of persons of known respectability. Every applicant will make a declaration according to the subjoined form, before a court (a) of record, setting forth, according to the best of her knowledge or belief, the name and rank of the person on account of whose service the claim is presented; the day, month, and year, (if possible,) when he entered the service, and the time when he left the same; and, if under more than one engagement, the claimant must specify the particular periods, and the rank and name of the officers under whom the service was performed; the town or company, and State, in which he resided when he entered the service; whether he was degraded, was a volunteer, or a substitute; the battles, if any, in which he was engaged; the country through which he marched, with such further particulars as may be useful in the investigation of the claim, and also, if the fact be so, that the claimant has documentary evidence in support of the claim. From the best sources information must be derived as to the period of the death (b) of the officer or soldier.

2. The legality of the marriage, and the time when it took place, must be clearly established; and must also be shown that the widow was never afterwards married. Record proof, as to the marriage, is always required whenever it can be obtained. In a case where the town, county, parish, church, or family records afford no proof as to the period when the marriage took place, the fact must be established by the testimony of one or more respectable persons, whose credibility must be certified by the officer who may administer the oath. And, in order to prevent any mistake or improper use that may be made of the affidavit of an officer who may have the custody of records, from which he may make transcripts of the record in relation to a marriage, the officer who may give his affidavit will, instead of copying the

(a) The declaration of the widow who claims, must be made, in all cases, in open court, unless she is prevented by bodily infirmity from appearing before the court.

(b) It must, in all cases, be shown in what year the husband died. The testimony on this point must be positive, and the language be free from all ambiguity.

figures contained in the record, certify "that it is a true copy of the record, with the exception of the date, which is expressed on the record in fair and legible figures, as follows:" (*Here copy the day, month, and year, in letters and figures, in exact conformity with the original. Then let him add the following words:*)

"I, A** B***, above named, depose and say that I hold the office of _____ in the county, town, and State aforesaid, and that the above is a true extract from the records of said _____, with the exception above named, as certified by me.

A** B***, *Clerk of the*
Sworn before me, C** D***, J. P."

And then will follow the certificate of the proper officer, under his seal of office, as to the official character and signature of the magistrate who may administer the oath. Where no record proof exists other than the family record, the original record must be produced and sworn to by the person in whose possession it has been kept. (c)

3. In a case where the service of the deceased officer or soldier is clearly proved by record, or documentary evidence, or the affidavit of a commissioned officer, showing the grade and length of service of the deceased, the particulars in relation to the service are not required to be set forth in the claimant's declaration; but she must swear, in positive terms, that she is the widow of the person whose service is thus proved. And no claim whatever can be sustained without positive proof of service.

4. In every case in which the deceased officer or soldier was a pensioner, the fact should be so stated, and the deceased pensioner so described as to enable the Department to refer immediately to the evidence upon which he was pensioned, and thus facilitate the investigation of the claim of the widow.

5. Applicants unable to appear in court, by reason of bodily infirmity, may make the declaration before required, before a judge or justice (d) of a court of record of the county in which the applicant resides, and the judge or justice will certify that the applicant cannot, from bodily infirmity, attend the court.

6. Whenever any official act is required to be done by a judge or justice of a court of record, or by a justice of the peace, the certificate of the Secretary of State or of the Territory, or of the proper officer or clerk of the court or county, under his seal of office, will be annexed, stating that such a person is a judge or a justice of a court of record, or a justice of the peace, and that the signature annexed is his genuine signature.

7. The widows of those who served in the navy, or as Indian spies, will produce proof, as nearly as may be, conformable to the

(c) The family record must be sent to the Pension Office, if there be no other record, accompanied by the oath of the person in whose possession it has been kept. The person who may swear to the genuineness of the record should give the name of the person in whose handwriting it was made.

(d) A declaration made before a justice of the peace cannot be admitted as evidence.

preceding regulations, and authenticated in a similar manner, with such variations as the different nature of the service may require.

J. L. EDWARDS.*

Widows' declaration under the act of the 29th July, 1848.

STATE [TERRITORY, OR DISTRICT] OF }
County of , } ss.

On this day of , personally appeared before the of the A B, a resident of , in the county of , aged years, who being duly sworn, according to law, doth, on her oath, make the following declaration, in order to obtain the benefit of the provisions made by the act of Congress, passed 29th July, 1848: That she is the widow of , who was a [Here insert the rank the husband held in the army, navy, or militia, as the case may be, and specify the service performed, as directed in rule numbered 1 of these regulations.]

She further declares that she was married to the said on the day of , in the year seventeen hundred and ; that her husband, the aforesaid , died on the day of ; that she was not married to him prior to his leaving the service, but the marriage took place previous to the second of January, eighteen hundred, viz: at the time above stated. She further swears that she is now a widow, and that she has never before made any application for a pension.

[Signed.] A** B**.

Sworn to and subscribed on the day and year above written, before me,

C** D**, J. P.

[18.]

REGULATIONS RESPECTING NAVY PENSIONS.

The widow of a pensioner rated as a "boy" may receive a pension in certain cases.

NAVY DEPARTMENT, April 29, 1841.†

SIR: It can admit of no doubt that a pensioner rated as a "boy" is entitled to a pension, if he be wounded or disabled during service in the line of his duty.

This seems decisive of the question submitted in your letter of the 19th instant; for if he be neither "officer, seaman, nor marine," he cannot have a pension himself; and if he be either, then, by the express declaration of the first section of the act of 1837, his widow, upon his death (in the service) becomes entitled to a pension. No reason can be conceived, no rule of interpretation can be found, by which the term officers, seaman, and marines, shall in the one case include a mariner rated as a "boy," and exclude him in the other. I have, therefore, no hesitation in giving an affirmative answer to your inquiry.

GEO. E. BADGER,

J. L. EDWARDS, Esq.

Secretary of the Navy.

* [The late commissioner states in a note to the Appendix of his compilation of 1849, that "no new forms are necessary under the act of February 22, 1849."—Eds.]

† We have not been able to procure evidence of the existence of any regulations for the execution of the navy pension laws by Secretaries of the Navy anterior to 1841. Those above given, from 1841 to 1844, inclusive, are derived from former imperfect editions of the pension laws of 1849, as likewise are most of the preceding decisions and regulations of Appendix II and Appendix III, with such elucidations of description and arrangement as seemed to be called for at our hands.—Eds.]

[19.]

Regulations under second section of the act of August 16, 1841.

NAVY DEPARTMENT, *August 20, 1841.*

SIR: Your letter of the 19th instant has been received.

The second section of the act of Congress, to which you have called my attention, is very obscurely worded, and I am by no means sure that I have been able to collect its true meaning.

The phrase "in service," seems to have been used instead of, and equivalent to, "on duty," for, in any other sense, the whole section becomes unmeaning, as every officer, while he continues to belong to the navy, is in the service, though he may not be on duty. Giving this sense to the phrase, I am of opinion—

First. That no officer can receive at the same time pay as an officer on duty and as a pensioner; and,

Secondly. That officers who may be "waiting orders," on "leave," or "furlough," can receive only so much on account of their pensions as, added to their pay when so "on leave," &c., will amount to the pay of their grade when "on duty."

Where, by the act of Congress of 1835, regulating the pay of the navy, officers are entitled to a higher rate of compensation, when employed in a certain specified manner, than when engaged in other duty, the rate of compensation of the latter is that which is referred to in this act, and is not to be exceeded by the aggregate of the pension and the pay while "waiting orders,"

For instance, a commander is entitled, when attached to vessels for sea service, to \$2,500 per annum, and on other duty to \$2,100. I am of opinion that such commander, when off duty, cannot receive more, including the pension, than \$2,100 per annum, and so of every other grade.

The case of seamen and marines seem to present peculiar difficulties, and I regret the hard consequences to them of the decision I have been compelled to form. They cannot, when in service, receive more than their pay, because there is no discrimination by law between their compensation when on duty, and when unemployed. Hence it seems to follow that no seaman or marine, while in service and receiving pay, can receive any payment at all on account of a pension.

I am of opinion that all pensioners are entitled to be paid up to the passage of the law; that is to say, up to the 16th instant, just as they would have been paid had the act never been passed.

J. L. EDWARDS, Esq.

GEO. E. BADGER.

[20.]

Respecting repeal of the act of March 3, 1837.

NAVY DEPARTMENT, *September 2, 1842.*

SIR: I respectfully submit the following as my views of the

laws referred to in your letter of the 29th August, and in answer to the questions therein propounded :

1. I am of opinion that "the widows who have been placed on the pension roll, under the act of March 3d, 1837," are to continue to the end of the late session of Congress.

2. I am of opinion that those widows who have applied for their pension under the act of 1837, and who are "entitled to receive or make proof" of the same, are entitled to receive them up to the end of the late session of Congress.

3. I am of opinion that widows who have not actually applied, but who are entitled to "receive and make proof" of their claims, under the act of 3d March, 1837, are entitled to receive the same up to the end of the late session of Congress, notwithstanding the act of August 23, 1842.

It is to be remarked that the act of August, 1841, applies only to those who were *then* widows, and not to such as became widows between that time and the 23d August, 1842.

A. P. UPSHUR.

J. L. EDWARDS, Esq.

[21.]

Forms adopted for invalid cases.

NAVY DEPARTMENT, *November 24, 1842.*

SIR: I have received your letter of the 22d instant, submitting for approval two forms, to be hereafter used in applications for invalid pensions.

The forms are approved, and will be adopted.

J. L. EDWARDS, Esq.

A. P. UPSHUR.

[Surgeon's certificate in an invalid case.]

(Date.)

It is hereby certified that _____, a _____ in the United States ship of war _____, commanded by _____, is rendered incapable of performing the duty of a _____, by reason of wounds or other injuries inflicted while he was actually in the service aforesaid, and in the line of his duty, viz :

By satisfactory evidence, and accurate examination, it appears that on the _____ day of _____, in the year _____, being engaged*, _____, and he is thereby not only incapacitated for duty aforesaid, but, in the opinion of the undersigned, is† _____ disabled from obtaining his subsistence from manual labor.

_____, Surgeon.

_____, Assistant Surgeon.

* Here state, particularly, the duty in which the applicant for a pension was engaged; the harbor, navy yard, river, bay, or ocean, where the ship was, and the time when the injury was received; and give a particular description of the wound, injury, or disease, and specify in what manner it has affected the applicant so as to produce disability in the degree stated.

† The blank in the last line but one is to be filled up with the proportioned "degree" of disability; for example: "three-fourths," "one-half," "one-third," &c., or "totally," as the case may be.

[Certificate of the commanding officer in an invalid case.]

I certify that _____, who was a _____ on board of this ship, while under my command, and while engaged in his duty as a _____, was, in consequence of the following circumstances, so injured as to be prevented from any further performance of his duty as a _____, and I therefore deem it proper that he should be discharged from the naval service of the United States. He was accordingly discharged on the _____ day of _____, in the year 184 ____.

While he was *

_____, Commander U. S.†

[22.]

A law repealed before a claim is perfected, abrogates the claim.

NAVY DEPARTMENT, *October 2, 1844.*

SIR: Your letter of the 5th June was duly received, but, from some cause, has been overlooked.

The opinion of the Attorney General, of April 15, 1844, to which you allude, settles the question that the act of 1837 was repealed by the act of 1842. The claim of Price's children was presented, but not perfected, before the repeal took effect. This may strengthen the application to Congress, but the Commissioner of Pensions cannot act, because the law, under which these children would have been entitled to a pension, is repealed.

J. L. EDWARDS, Esq.

J. Y. MASON.

[23.]

Act of 2d March, 1799, not in force.

PENSION OFFICE, *October 31, 1844.*

SIR: The Hon. F. O. J. Smith, of Maine, who is now in this city, has requested me to lay before you the case of Mrs. Clough, who claims a pension under the act of the 2d of March, 1799. That act was repealed on the 1st of June, 1800. No widow ap-

* Here state, particularly, all the facts as to the origin of the applicant's disability; the duty in which he was engaged; the particular circumstances which led to the injury; the harbor, navy yard, river, bay, or ocean, where the ship was, and the time when the injury was received.

† [It was entirely unnecessary to call upon the Secretary of the Navy to give his approval to these forms. They are but a partial repetition of forms of reports required, by naval regulations, and made, at stated times, from the earliest periods of the service; and which were, at length, for the convenience of conveying to the Pension Office, in a body, for its information on the matters of "death," "ordinary disability," and "disability for a pension," on which widows' pensions, or invalid pensions, might afterwards be based, that the Secretary of the Navy has more recently required these reports to be made in a separate and distinct form, as may be seen by his "ORDER" of the 13th of October, 1851, No. [26] p. 584, sequel. The thing that is most remarkable, however, in this connexion, is, that it did not at the same time occur to the late Commissioner of Pensions to propose a form of a "declaration for invalids," to aid and facilitate their applications for a pension. Such a form has never yet been adopted for the use of invalids in either branch of the service; in consequence of which omission they have to rely on the collateral evidence of their disability, as afforded by those reports, and other testimony; and sometimes elaborate an unseemly form of "declaration" for themselves, in order to initiate and present their claims before the office as well as they can.—*Editors.*]

pears ever to have been pensioned under the act of 1799; and my opinion is that they are not provided for by the act. I inclose Mr. Smith's letter, and respectfully ask a return of it when you shall have decided on the case.

Hon. J. Y. MASON.

J. L. EDWARDS.

Upon the facts stated, I cannot perceive that Mrs. Clough's claim is valid. The provision of a pension, in certain contingencies, constituted no contract with the seamen. It was gratuity, which Congress had the right to withdraw by repeal of the law granting it. Mr. Clough having received the injury after the repealing law went into effect, there is not legal authority to grant a pension under the act of 1799.

J. Y. MASON.

[24.]

PENSION OFFICE, *January 27, 1845.*

Claimants under the joint resolution of the 23d January, 1845, will make a declaration, setting forth the facts in their case, according to the subjoined form. The declaration may be made before any magistrate authorized to administer oaths. The official character and signature of the magistrate must be certified by the proper officer, under his seal of office.

[J. L. E.]

WIDOWS' DECLARATION.—In order to obtain the benefits of the resolution of Congress of the 23d January, 1845, for revolutionary and other pensions.

Whereas the act of the 30th of April, 1844, prohibited me from drawing a pension for the same period during which my husband was a pensioner, I now make the following statement under oath, to obtain the benefits of the resolution above mentioned. I am the widow of _____, who was a _____ in the war of the revolution; I have drawn a pension at the rate of _____ dollars per annum from the _____ of _____ 18____, and now ask for the amount due me from the _____ day of _____ 18____, to the _____ day of _____ when my former pension commenced.

[Signed.] A** B***.

Sworn to and subscribed before me, on this _____ day of _____ in the year _____ at _____ C** D***, J. P.

I certify, that the declarant is personally known to me, and that she is the same individual she represents herself to be in the foregoing affidavit.

C** D***, J. P.

I _____, clerk of the _____, do hereby certify that _____, who has signed the foregoing, is a justice of the peace for the county of _____ in the State of _____; and that the above is his signature.

In testimony whereof, I have hereunto subscribed by name and affixed my seal of office, this _____ day of _____, at _____, in the State of _____
[L. s.] C** C***, Clerk.

[25.]

FORMS OF WIDOWS' APPLICATIONS FOR RENEWAL OF PENSIONS, UNDER VARIOUS LAWS.

Form of application of a widow in order to RENEW her pension under the act of the 30th June, 1834.

TO THE COMMISSIONER OF PENSIONS:

The memorial of the undersigned, the widow of the late _____, who was a _____ in the navy of the United States, respectfully shows:

That her husband, the aforesaid _____, entered the service of the United States in the year _____; that, while in the said service, and holding the rank above mentioned, he departed this life, at* _____, on the _____ day of _____, in the year _____; that the undersigned was married to the said _____ on the _____ day of _____, in the year _____; and in proof thereof, she exhibits the following evidence: [*Here describe the proof, whether the clergyman's certificate, a family record, town or county clerk's certificate, or the affidavit of a respectable witness.*]; She therefore claims the benefits of the act of Congress of the 30th June, 1844, granting pensions to the widows of officers, seamen, and marines, who have died in the service aforesaid; and she requests that her name may be inscribed on the roll of pensioners under that law, who are paid at _____, in the State of _____.

[Signed] A** B**.

Sworn and subscribed to, before me, _____, on this _____ day of _____, in the year _____ C** D***, J. P.

Form of application of a widow in order to RENEW her pension under the act of the 3d March, 1837.

TO THE COMMISSIONER OF PENSIONS:

The memorial of the undersigned, the widow of the late _____, who was a _____ in the navy of the United States, respectfully shows:

That her husband, the aforesaid _____, entered the service of the United States in the year _____; that, while in the said service, and holding the rank above mentioned, he departed this life at* _____, on the _____ day of _____, in the year _____; that the undersigned was married to the said _____ on the _____ day of _____, in the year _____; and in proof thereof, she refers to papers on file in the Pension Office upon which she obtained a pension for five years. She therefore claims the benefits of the second section of the act of Congress of the 3d of March, 1847, entitled "An act making appropriations for the payment of navy pensions for the year ending thirtieth June, eighteen hundred and forty-eight," granting pensions to the widows of officers, seamen, and marines, who have died in the service aforesaid; and she requests that her name may be inscribed on the roll of pensioners under that law, who are paid at _____, in the State of _____.

[Signed.] A** B**.

Sworn and subscribed to, before me, _____, on this _____ day of _____, in the year _____ C** D***, J. P.

Application of a widow in order to RENEW her pension under act of March 3, 1845.

TO THE COMMISSIONER OF PENSIONS:

The memorial of the undersigned, the widow of the late _____, who was a _____ in the navy of the United States, respectfully shows:

That her husband, the aforesaid _____, entered the service of the United States in the year _____, that, while in said service, and holding the rank above

* If at a navy yard, the fact must stated, and the name of the navy yard; if on board of a vessel of war, the name of the vessel must be given.

☞ The official character and signature of the magistrate who may administer the oath must be certified by the proper officer, under his seal of office.

☞ In no case can the claim be allowed, unless it can be clearly shown by the certificate of a navy surgeon that the husband died of a disease contracted, or of some casualty, by drowning, or otherwise, or of an injury received, while he was in the line of his duty. The surgeon must make a particular statement of all the facts in the case, describe the disorder or injury, and state also upon what particular duty the husband was engaged when the disability arose which resulted in his death.

mentioned, he departed this life, at* , on the day of , in the year ; that the undersigned was married to the said on the day of , in the year ; and in proof thereof, she refers to papers on file in the Pension Office, upon which she obtained a pension for five years. She therefore claims the benefits of the act of Congress of the 3d of March, 1845, granting pensions to the widows of officers, seamen, and marines, who have died in the service aforesaid ; and she requests that her name may be inscribed on the roll of pensioners under that law, who are paid at , in the State of [Signed] A** B***.

Sworn and subscribed to, before me, on this day of , in the year C** D***, J. P.

Application of a widow who, for the first time, claims a pension under the act of 11th August, 1848.

TO THE COMMISSIONER OF PENSIONS:

The memorial of the undersigned, the widow of the late , who was a , in the navy of the United States, respectfully shows:

That her husband, the aforesaid , entered the service of the United States in the year ; that, while in the said service, and holding the rank above mentioned, he departed this life at* on the day of , in the year ; that the undersigned was married to the said on the day of , in the year ; and in proof thereof she exhibits the following evidence: [*Here describe the proof, whether the clergyman's certificate, a family record, town or county clerk's certificate, or the affidavit of a respectable witness.*] She therefore claims the benefits of the act of Congress of the 11th of August, 1848, granting pensions to the widows of officers, seamen, and marines, who have died in the service aforesaid ; and she requests that her name may be inscribed on the roll of pensioners under the law, who are paid at , in the State of [Signed.] A** B***.

Sworn and subscribed to, before me, , on this day of , in the year C** D**, J. P.

Application of a widow in order to RENEW her pension under act of 11th August, 1848.

TO THE COMMISSIONER OF PENSIONS:

The memorial of the undersigned, the widow of the late , who was a , in the navy of the United States, respectfully shows:

That her husband, the aforesaid , entered the service of the United States in the year ; that, while in the said service, and holding the rank above mentioned, he departed this life, at* , on the day of , in the year ; that the undersigned was married to the said on the day of , in the year , and in proof thereof, she refers to papers on file in the Pension office, upon which she obtained a pension for five years. She therefore claims the benefits of the act of Congress of the 11th August, 1848, granting pensions to the widows of officers, seamen, and marines, who have died in the service aforesaid ; and she requests that her name may be inscribed on the roll of pensioners under that law, who are paid at , in the State of [Signed.] A** B***.

Sworn to, and subscribed before me, on this day of , in the year C** D***, J. P.

* If at a navy yard, the fact must be stated, and the name of the navy yard ; if on board of a vessel of war, the name of the vessel must be given.

☐ The official character and signature of the magistrate who may administer the oath must be certified by the proper officer, under his seal of office.

☐ In no case can the claim be allowed, unless it can be clearly shown by the certificate of a navy surgeon, that the husband died of a disease contracted, or of some casualty, by drowning or otherwise, or of an injury received, while he was in the line of his duty. The surgeon must make a particular statement of all the facts in the case, describe the disorder or injury, and state also upon what particular duty the husband was engaged when the disability arose which resulted in his death.

[26.]

PENSION OFFICE, *October 13, 1851.*

The following order and forms, prescribed by the honorable Secretary of the Navy, will serve as guides for this office in all applications for navy pensions to which they apply.

J. E. HEATH,
Commissioner of Pensions.

General Order.

NAVY DEPARTMENT, *February 17, 1851.*

In *all cases* of death or disability in the naval service of the United States, whether from wounds, injuries, casualties or disease, it shall be the duty of the senior medical officer of the ship, station or hospital, to record such death or disability, the facts thereto relating, and whether or not it originated in the line of his duty.

In all cases of death, a certificate shall issue, in which a copy of the surgeon's record and a statement of service shall be given.

In all cases of disability of a permanent character, which shall have originated in the line of duty, a certificate for pension shall issue in which, together with a copy of the surgeon's record and statement of service, the degree of disability shall be set forth.

In all cases of discharge from service by reason of unfitness for the performance of duty from temporary disability, a certificate of ordinary disability shall issue, in which a copy of the surgeon's record and a statement of service shall appear.

Such certificates are to be signed by the senior surgeon, countersigned by the purser, and approved by the commanding officer of the ship, station, or hospital where such death, disability or discharge may occur, and must be forwarded in duplicate by the commanding officer to the Navy Department.

WILLIAM A. GRAHAM,
Secretary of the Navy.

Certificate of death.

I hereby certify, that [*name of the deceased,*] who was a _____ in the United States navy, while attached to (a.) _____ and holding the rank above mentioned, departed this life at (b.) _____ on the _____ day of _____, in the year _____; and that he died of (c.) _____, as set forth in the record of his case, of which the following is a copy, to wit:

N^o S^{ur}g^{on}, *Surgeon.*

The above named _____, deceased, was born at _____, in the State of _____; about _____ years of age; _____ feet _____ inches high; _____ complexion; _____ eyes; _____ hair; and entered the United States naval service, at _____, on the _____ day of _____, in the year _____.

N^o P^{ur}s^{er}, *Purser.*

Approved:

_____, *Commanding U. S.*

(a.) If at a navy yard, ship, or hospital, insert name and place.

(b.) The same.

(c.) Wound, casualty, or disease, as the case may be.

Certificate of ordinary disability.

I hereby certify, that [*name of invalid*,] a _____ in the United States navy, attached to (d.) _____ and holding the rank above mentioned rendered unfit for the performance of his duty by reason of (e.) _____, as set forth in the record of his case, of which the following is a copy : _____; and therefore, in the opinion of the undersigned, the interests of the service require that he should be discharged.

S** N***, Surgeon.

The above named [*name of invalid*,] _____, was born at _____ in the State of _____, is _____ years of age; _____ feet _____ inches high; _____ complexion; _____ eyes; _____ hair. He entered the United States naval service at _____ day of _____, 18 _____; and _____ discharged (f.) _____, on the _____

P** N***, Purser.

Approved :

_____, Commanding U. S.

Discharged from the United States naval service, on the _____ day of _____, 18 _____

F** A***, 4th Auditor.

Certificate for pension.

I hereby certify, that [*name of invalid*,] a _____ in the United States navy, _____ while attached to (g.) _____ and holding the rank above mentioned, was disabled by (h.) _____, in the United States naval service, and in the line of his duty, as set forth in the record of his case, of which the following is a copy, to wit : _____

He is thereby not only incapacitated for duty as aforesaid, but, in the opinion of the undersigned, is (i.) _____ disabled from obtaining his subsistence by manual labor.

S** N***, Surgeon.

The above named [*name of invalid*,] _____, was born at _____ in the State of _____, is _____ years of age; _____ feet _____ inches high; _____ complexion; _____ eyes; _____ hair. He entered the the United States naval service at _____ on the _____ day of _____, 18 _____; and _____ discharged (j.) _____

P** N***, Purser.

Approved :

_____, Commanding U. S.

Finally discharged from the United States naval service, on the _____ day of _____, 18 _____

F** A***, 4th Auditor.

[27.]

[Order made by request of the Pension Office for medical survey of disability where no report "FOR A PENSION" has been made by a naval surgeon.]

NAVY DEPARTMENT, Bureau of Surgery, _____, 18—.

GENTLEMEN : Be pleased to hold a careful survey, in the case of _____ affected with _____, and report, in duplicate, your opinion of his condition ; the amount of disability involved ; and whether or not, the disease with which he is now affected, originated in the line of duty. Respectfully, &c.

_____, Chief of Bureau.

(d.) If at a navy yard, ship, or hospital, insert name and place.

(e.) Wound, casualty, or disease.

(f.) Insert whether final, or to hospital or ship, for passage home, in which cases the discharge must be furnished by the Fourth Auditor.

(g.) If at a navy yard, ship, or hospital, insert the name and place.

(h.) Insert by wound received, casualty occurring, or disease contracted.

(i.) Insert *degree*, whether total, three-fourths, one-half, &c.

(j.) Insert whether to hospital, to ship, for passage home, or finally ; if for passage home or hospital, the date of final discharge must be furnished by the Auditor.

[28.]

FORMS OF "PENSION CERTIFICATES," AND OF "NOTICES" TO PENSION AGENTS TO PAY.

[Notice to pension agent in behalf of a navy invalid placed on the rolls.]

PENSION OFFICE, _____, 18 .

SIR: You are hereby informed that _____, who was a _____ in the navy of the United States, has been placed on the list of invalid navy pensioners, under the act of April 23, 1800, at the rate of _____ dollars and _____ cents per month, to commence on the _____ day of _____, 18 ; and that the pension is payable at _____.

_____, Esq.

_____,
Commissioner of Pensions.

[Certificate of a navy invalid pensioner.]

[*Name of the invalid*] having been disabled in the service of the United States, whilst acting in the line of his duty, is entitled to receive at the navy pension agency, _____ per month, payable half yearly, on the first day of July and first day of January, during his life, or the continuance of such disability, to commence the _____ day of _____, one thousand eight hundred and _____. The same will be paid to the said _____ in person, or on his legal power of attorney; but no payment will be made, either personally or on a power of attorney, unless the said _____ shall produce or send to the _____ the certificate of a justice of the peace of the county or place wherein he resides, that he the said _____ appeared before the said justice, in the month next preceding that in which the payment is to be made, and also the certificate of a reputable surgeon, that his disability still continued.

Given under my hand and the seal of the Department of the Interior, this _____ day of _____, one thousand eight hundred and _____.

Examined and countersigned.

_____,
*Secretary of the Interior.*_____,
Commissioner of Pensions.

Registered, _____, Clerk.

[Notice to pension agent in behalf of a navy pension of a widow placed on the rolls.]

PENSION OFFICE, _____, 18 .

SIR: You are hereby informed that _____, widow of _____, who was a _____ in the navy of the United States, has been placed on the list of widows' navy pensions, under the act of _____ of _____, 18 , at the rate of _____ dollars and _____ cents per month; to commence on the _____ day of _____, 18 , and to continue five years, unless she should marry or die before the expiration of five years; and in either case the pension will cease on the day of such marriage or death. The pension is payable at the agency in _____.

_____, Esq.

_____,
Commissioner of Pensions.

[Certificate of a widow's navy pension.]

[*Name of the deceased husband*] died on the _____ day of _____, and having lost his life while in the service of the United States, [*name of the widow*], his widow, is entitled to receive at the _____ dollars per month, payable half yearly, at the first day of July and first day of January, to commence on _____ day of _____, one thousand eight hundred and _____, to continue during widowhood; she producing a certificate that she is the widow of said _____, which certificate shall be signed by one of the principal magistrates of the town or place where said widow resides. And in case of death or intermarriage, the pension shall be paid to the child or children of said widow until they respectively arrive at the age of sixteen years.

Given under my hand and the seal of the Department of the Interior, this _____ day of _____, one thousand eight hundred and _____.

Examined and countersigned.

_____,
*Secretary of the Interior.*_____,
Commissioner of Pensions.

Registered, _____, Clerk.

[Notice to pension agent in behalf of a navy pension of an orphan placed on the rolls.]

PENSION OFFICE, _____, 18 ____.

SIR: You are hereby informed that _____, child _____, of _____, who was a _____ in the United States navy, has _____, under the act of _____, been placed on the list of orphans' navy pensions, at the rate of _____ dollars and _____ cents per month, to commence on the _____ day of _____, eighteen hundred and _____, and continue until _____ shall, respectively, have attained the age of sixteen years. Payable at the navy pension agency _____ to _____ guardian.

_____, Esq.

_____,
Commissioner of Pensions.

[Certificate of an orphan's navy pension.]

[Name of a deceased father,] who was a _____ in the United States navy, died on the _____ day of _____, eighteen hundred and _____, and having lost his life while in the service of the United States, his child _____ entitled under the act of _____ to receive _____ dollars and _____ cents per month, in half yearly instalments, on the first day of July and first day of January, to commence on the _____ day of _____, eighteen hundred and _____, when and continue until the said child shall have attained the age of sixteen years. Payable at the navy pension agency _____ to _____ guardian.

Given under my hand and the seal of the Department of the Interior, this _____ day of _____, eighteen hundred and fifty-

Examined and countersigned.

_____,
Secretary of the Interior.

_____,
Commissioner of Pensions.

Registered, _____, Clerk.

[29.]

[CIRCULAR TO PENSION AGENTS.—Instructions and forms prescribed by the Second Comptroller to be observed by pension agents for keeping and stating their accounts for settlement at the Treasury.*]

TREASURY DEPARTMENT,
Second Comptroller's Office, June 10, 1833.

SIR: The following instructions and forms for keeping and stating accounts for settlement at the Treasury, are prescribed to pension agents agreeably to the provision of the 9th section of "An act to provide for the prompt settlement of public accounts," approved March 3, 1817.

Recent acts of Congress, on the subject of revolutionary and other pensioners, rendered necessary a revision of the instructions and forms heretofore issued from this office on the subject; in doing which, care has been taken to bring together the detached forms and instructions which have been prescribed at different times, as occasion required, arranged in the proper order, altered to conform to existing laws, and so modified as to simplify the vouchers, as far as a proper regard to the safety of the Treasury and the interest of the pensioners will admit.

They are intended to supersede all former instructions issued

* [The instructions and forms annexed to, and made part of, the above circular, were modified and extended by the Comptroller, on the 1st of September, 1846, as here given, the foregoing letter of Comptroller Thornton being then adopted and prefixed to their amended instructions.—*Ede.*]

on the same subject, and are now officially communicated for your guide on the subject-matter of them, after the 1st day of September, 1833.

A prospective operation is given to these instructions, in order to afford the agents an opportunity to circulate the information and forms among all the pensioners prior to the time of their taking effect.

After the 1st day of September, 1833, all vouchers must be made out to conform substantially to these instructions, or they will be rejected at the Treasury.

J. R. THORNTON,
Second Comptroller.

To the agent for paying United States'
pensions at _____.

Instructions, &c.

The following order will be observed in the several documents composing the voucher, viz :

I. When application is made for the payment of a pension, the first thing that seems necessary is, that the identity of the person, in whose behalf the pension is claimed, should be established. This must be done agreeably to the prescribed form, marked A; and for widows pensioned by the War Department, agreeably to form marked E.

II. Under the provisions of the acts of 6th April, 1838, and 23d August, 1842, where a pension has remained unclaimed by any pensioner, for the term of *fourteen* months after the same became due and payable, it cannot be paid by the pension agent, but application therefor must be made to the Treasury of the United States through the Third Auditor, if the pension certificate issued from the War Department, and through the Fourth Auditor, if it issued from the Navy Department. The usual vouchers will suffice, with the exception that additional proof of the identity of the pensioner will be required, according to form marked B. Each pension agent, immediately on the expiration of fourteen months subsequent to each semi-annual payment, will certify to the office of the Second Comptroller a correct list, containing the name, rank, rate of pension, amount due, and time of last payment of each pensioner remaining unpaid on the roll of his agency, whose pension has been due and payable for the term of fourteen months prior to the date of such certificate. When, however, a new pensioner is placed on the roll, or an old pension is renewed, the fourteen months commences, running from the semi-annual payment next after the date of his, or her, pension certificate, and not from the commencement or renewal of the pension.

III. When an attorney shall make application for a pension, *be the rank of the pensioner what it may*, he must deposite with you a power of attorney in his favor, duly acknowledged, and dated on or subsequent to the day on which the pension claimed

became due, and within ninety days of the time of his applying for payment, and also his own affidavit that said power was not given him by reason of any *sale, transfer, or mortgage* of said pension; and the execution of the power must be in the presence of at least one witness, other than the magistrate before whom it is acknowledged. These papers must be made out in strict conformity to the subjoined form, marked C.

IV. In all cases of payments upon a power of attorney, the justice of the peace or magistrate before whom it is executed, must have lodged with the agent the certificate of the clerk of some court of record, under seal of the court, that he is legally authorized to act as such; and also a paper bearing his proper signature, certified to be such by the clerk of some court of record.

V. It is advisable, and is so recommended, that pension agents procure and place in a book the signatures and seals of clerks of the different courts within their agency, who may be authorized to certify as to the powers, the better to detect, by comparison of the signatures and seals, impositions that may be attempted.

VI. Under the provisions of the acts of 2d March, 1829, and 29th June, 1840, in case of the death of any pensioner, the arrears of pension due to him at the time of his death must be paid—

1st. "To the widow of the deceased pensioner, or to his attorney," proving herself to be such before a court of record.

2d. If there be no widow, then the executor or administrator on the estate of such pensioner, for the sole and exclusive benefit of the children, to be by him distributed among them in equal shares; and the law of 1849 declares that the arrears of pension "shall not be considered a part of the assets of said estate, nor liable to be applied to the payment of the debts of said estate in any case whatever."

3d. In case of the death of any pensioner who is a widow leaving children, the amount of pension due at the time of her death must be paid to the executor or administrator for the benefit of her children, as directed in the foregoing paragraph.

4th. In case of the death of any pensioner, whether male or female, leaving children, the amount of pension may be paid to any one or each of them, as they may prefer, without the intervention of an administrator. If one of the children is selected to receive the amount due, he, or she, must produce a power of attorney from the others for that purpose, duly authenticated. The oath of identity for the widow, or child, of a deceased pensioner, must be according to form F; and when they appoint an attorney, the power of attorney must be according to form marked G.

5th. If there be no widow, child, or children, then the amount due such pensioner at the time of his death must be paid to the legal representatives of the decedent.

6th. When an executor or administrator shall apply for the pension due to a deceased person, he must deposite with you a

certificate of the clerk of the court, judge of probate, register of wills, ordinary or surrogate, (as the case may be,) stating that he is duly authorized to act in that capacity on the estate of the deceased pensioner, and, if a male, that it has been proved to his satisfaction that there is no widow of the said pensioner living.

VII. In all cases of payments being made of moneys due a deceased pensioner, the original pension certificate must be surrendered, as evidence of the identity of the person to whom the pension claimed was due, or other substantial evidence of such identity must be produced in case such certificate cannot be obtained for surrendry; and that due search and inquiry have been made for the said certificate, and that it cannot be found. The date of said pensioner's death must be proved before a court of record.

VIII. A certificate of the facts proved must be obtained from the clerk of the court. It is not necessary for the clerk to give the evidence in detail, but only to state the facts that have been proved, and certify, under his seal of office, that the testimony adduced was satisfactory to the court, according to form marked H; and in case a pension certificate is illegally withheld from a pensioner, he (or she, as the case may be,) must produce evidence of identity and the facts, agreeably to the form marked I.

IX. When a pensioner is placed under guardianship, the guardian applying for a pension must, in addition to the evidence of the pensioner's identity, deposit with you a certificate from the proper authority, that he is, *at that time*, acting in that capacity; and also satisfactory evidence that his ward was living at the date the pension claimed became due. The identity of the pensioner in such cases must be established under the form herewith, marked D.

X. For all payments made by you duplicate receipts must be taken, (agreeably to the subjoined form, marked K,) one of which you will forward, with your quarterly accounts, to the Third Auditor of the Treasury for pensions under the War Department, and to the Fourth Auditor for pensions under the Navy Department; and in *all* cases where a pensioner or attorney makes a mark, from inability to write his name, there must be a witness thereto, otherwise such receipt, or voucher, will not be admitted at the Treasury.*

* By the second section of "An act making appropriations for the payment of the revolutionary and other pensioners of the United States," approved February 22d, 1840, pension agents are authorized to administer all oaths required to be administered to pensioners, attorneys of pensioners, or others, in the course of the preparation of papers for the payment of pensions under any of the laws of Congress; and to charge and receive the same compensation therefor as the laws of the State in which the agent is located allow to magistrates for similar services.

A.

STATE OF

county, } ss.

Be it known, that before me, _____, a _____, in and for the county aforesaid, duly authorized by law to administer oaths, personally appeared _____ and made oath in due form of law, that he is the identical person named in an original certificate in his possession, of which (I certify) the following is a true copy :*

[Here insert a copy of his certificate of pension.]

that he now resides in _____, and has resided there for the space of _____ years past; and that previous thereto he resided in _____; and that he has not been employed, or paid, in the army, navy, or marine service of the United States from the _____ day of _____ to _____

Sworn and subscribed this _____ day of _____, 18 _____, before me.
[Signed.] A** B**.
C** D**, J. P.

B.

STATE OF

county, } ss:

_____, 18 _____.

I, _____, a magistrate in the county above named, do hereby certify that I have the most satisfactory evidence,† viz: that _____, who has this day appeared before me to take the oath of identity, is the identical person named in the pension certificate, which he has exhibited before me, numbered _____, and bearing date at the War Office, the _____ day of _____, 18 _____; and signed by _____, Secretary of War.

Given under my hand at _____, on the day and year above written.
C** D**, J. P.

STATE OF

county, } ss:

I, _____, clerk of the _____ court, of the county and State aforesaid, do hereby certify that _____ is a justice of the peace, in and for said county, duly commissioned and qualified; that his commission was dated on the _____ day of _____, 18 _____, and will expire on the _____ day of _____, 18 _____, and that his signature above written is genuine.

Given under my hand and the seal of said county, this _____ day of _____, 18 _____.
[L. s.] C** C**, Clerk.

C.

Know all men by these presents, That I, _____, of _____, (a) pensioner of the United States, do hereby constitute and appoint _____ my true and lawful attorney, for me, in my name, to receive from the agent of the United States for paying pensions in _____ State of _____, my pension from the _____ day of _____, 18 _____, to the _____ day of _____, 18 _____.

Witness my hand and seal, this _____ day of _____, 18 _____.
[Signed.] A** B**.

Sealed and delivered in presence of _____.
[L. s.] C** D**, J. P.

* Where the pension has been increased since the certificate has been given, the magistrate will note the fact.

In case of a *revolutionary* pensioner, the part of the above form which requires the pensioner to depose that "he has not been employed, or paid," &c., is not required. The law of April 30, 1844, forbids the payment of an invalid pension to any person while in either of the military services, "unless the disability, for which the pension was granted, be such as to have occasioned his employment in a lower grade."

† Here state what the evidence is; whether personal knowledge, or the affidavits of respectable persons, giving their names.

Where the pensioner is personally known to the agent, and he will certify to his identity, the above form (B) may be dispensed with.

(a) In this blank insert the word *invalid*, or *revolutionary*, as the case may be.

STATE OF _____, COUNTY—ss.

Be it known, That on the _____ day of _____, 18____, before the subscriber, a _____ in and for said county, duly authorized by law to administer oaths, personally appeared _____, above named, and acknowledged the foregoing power of attorney to be his act and deed. In testimony whereof I have hereunto set my hand, the day and year last above mentioned.

C^o D^o, J. P.

*STATE OF _____, COUNTY—ss.

Be it known, That on the _____ day of _____, 18____, before me, a _____, in and for said county, duly authorized by law to administer oaths, personally appeared _____, the attorney named in the foregoing power of attorney, and made oath that he had no interest whatever in the money he is authorized to receive, by virtue of the foregoing power of attorney, either by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been so disposed of to any person whatever.

Sworn and subscribed the day and year last above mentioned, before me,

C^o D^o, J. P.

—
D.

STATE OF _____, COUNTY—ss.

Be it known, That before me, _____, a _____ in and for said county, duly authorized by law to administer oaths, personally appeared _____, guardian of _____, and made oath in due form of law that the said _____ is still living, and is the identical person named in the original certificate in his possession, of which (I certify) the following is a true copy:

[Here insert a copy of his certificate of pension.]

that he now resides in _____, and has resided there for the space of _____ years past, and that previous thereto he resided in _____.

Sworn and subscribed this _____

day of _____, 18____, before me, _____, Guardian.
C^o D^o, J. P.

—
E.

Form of an affidavit to be made by a widow placed on the pension rolls of the War Department.

STATE, [OR TERRITORY,] OF _____, } ss.
County of _____, }

Be it known, That before me, _____, a _____, duly authorized by law to administer oaths, in and for the county aforesaid, personally appeared _____, and made oath in due form of law, that she is the identical person named in an original certificate in her possession, of which (I certify) the following is a true copy:

[Here insert a copy of her certificate of pension.]

that she has not intermarried, but continues the widow of the abovementioned _____; and that she now resides in _____, and has resided there for the space of _____ years past; and that previous thereto she resided in _____; of the truth of which statements I am fully satisfied.

Sworn to and subscribed this _____

[Signed.] A^o B^o.
day of _____, 18____, before me.
C^o D^o, J. P.

[In cases where a widow was placed on the pension roll under the act of March 3d, 1843, and had surrendered her certificate, on the expiration of her pension, previously to the renewal of widows' pensions by the act of June 17, 1844, the following form may be substituted for the above. But as widows who were never placed on the pension

* The above form of oath is necessary for the attorneys of widows pensioned under the laws of July 4, 1836, and July 7, 1838, and subsequent laws continuing their provisions. For other pensions, the old form of attorney's oath is sufficient; but as the above form is valid in all cases, to prevent mistakes, its general adoption is advised.

list prior to the act of June, 1844, whose claims have subsequently been admitted, will be furnished with pension certificates from the War Department, *they* will be required to insert a copy of their certificates in the oath of identity, agreeably to the foregoing form.]

STATE OF _____, COUNTY—ss.

Be it known, That before me, a _____ in and for the county aforesaid, duly authorized by law to administer oaths, personally appeared _____, and made oath, in due form of law, that she is the identical person who drew a pension under the act of 3d March, 1843, on account of the revolutionary service of her husband, the late _____, at the rate of \$ _____ per annum; that she now makes this affidavit for the purpose of drawing a pension under the act of Congress passed on the 17th of June, 1844, entitled "An act to continue the pension of certain widows," that she has not intermarried, but continues to be a widow; that she now resides in _____, in the county of _____, and State of _____, and has resided there for the space of _____ years past; and that previous thereto she resided in _____

[Signed.] A** B***.

Sworn to and subscribed this _____ day of _____, 18____, before me,
C** D***, J. P.

I certify that the abovenamed affiant is personally known to me, and that she is the same individual who drew a pension as stated by her in the foregoing affidavit.

C** D***, J. P.

F.

Oath of identity for the widow or child of a deceased pensioner.*

STATE OF _____, COUNTY—ss.

Be it known, That before me, _____, a _____ in and for the county aforesaid, duly authorized by law to administer oaths, personally appeared _____, and made oath, in due form of law, that she is the widow (or son, or daughter, as the case may be,) of _____, the identical person who was a pensioner, and is now dead, and _____ to whom a certificate of pension was issued, which is herewith surrendered.

That the deceased pensioner resided in _____

[Signed.] A** B***.

Sworn to and subscribed this _____ day of _____, 18____, before me,
C** D***, J. P.

G.

Power of attorney for the widow or child of a deceased pensioner.

Know all men by these presents, That I, _____, of _____ in the county of _____, State of _____, widow, (or child, as the case may be,) of _____, who was a _____ pensioner of the United States, do hereby constitute and appoint _____ my true and lawful attorney, for me, and in my name, to receive from the agent of the United States for paying pensions in _____, State of _____, the balance of said pension from the _____ day of _____, 18____, to the _____ day of _____, 18____, being the day of his death.

Witness my hand and seal this _____ day of _____, 18____.
[Signed] A** B***.

Sealed and delivered in presence of
[L. S.] _____

C** D***, J. P.

H.

Certificate of the court as to the death of the pensioner.

STATE OF _____, COUNTY—ss.

I, _____, clerk of the court of _____, holden at _____, in and for _____, do hereby certify that satisfactory evidence has been exhibited to said court that _____ was a pensioner of the United States at the rate of _____ dollars per _____; was resident of the county of _____, in the State of _____.

* The oath of identity for the executor or administrator of a deceased pensioner may be in the foregoing form—substituting "executor," (or "administrator," as the case may be,) for "widow," &c.

, and died in the , in the State of in the year , on the day of ; that he left a widow [or no widow] (or children, as the case may be) whose name is (or are, as the case may be.) In testimony whereof, I have hereunto set my hand and affixed my seal of office, at , this day of , in the year of our Lord 18 .
[L. S.] C** C***, Clerk of the

I.

Evidence in cases where pension certificates are illegally withheld.

STATE OF , COUNTY—ss.
Be it known, That before me, , a in and for the county aforesaid, duly authorized by law to administer oaths, personally appeared and made oath, in due form of law, that he (or she, as the case may be,) is the identical named in the original pension certificate now illegally withheld by
[Here state the facts respecting the detention of the pension certificate.]
that he (or she) is entitled to a pension of dollars per month; that he (or she) now resides in , and has resided there for the space of years past; and that previous thereto, he (or she) resided in

[Signed.] A** B**.
Sworn and subscribed this day of , 18 .
C** D***, J. P.

STATE OF , COUNTY—ss.
Conformably to the regulations of the War Department of the 27th of October, 1832, I , a magistrate in the county above named, do hereby certify that I have the most satisfactory evidence, viz: * that , who this day appeared before me to take the oath of identity, is the identical pensioner he (or she) declares himself (or herself) to be in the annexed affidavit; and I am also satisfied that the statement made by him (or her) in relation to the pension certificate is true.
Given under my hand at , the day and year above written.

C** D***, J. P.
I, , clerk of the court of county, certify that is a magistrate as above, and that the foregoing certificate, purporting to be his, is genuine.

In testimony whereof, I have hereunto affixed my seal of office, and subscribed my name, this day of , in the year
[L. S.] C** C***, Clerk of the Court of County.

K.

Received of , agent for paying pensions, dollars cents, being for month's pension due to from the day of , 18 , to the day of , 18 , for which I have signed duplicate receipts.

[Signed] A** B**.

[30.]

[CIRCULAR TO PENSION AGENTS.—Instructions and forms to be observed by pension agents in paying navy and privateer pensions.]†

PENSION OFFICE, May, 1840.

The agents for paying navy pensions are directed to observe the following rules:

* Here state what the evidence is; whether personal knowledge, or the affidavit of respectable persons—giving their names.

† If the pension agent act as a magistrate in the case, the certificate of the clerk of the court is not required.

† [These instructions and forms, as the preceding, should, by law, emanate from the Second Comptroller. They are, nevertheless, equivalent to the foregoing, and have the advantage of being more brief. We presume the agent for paying pensions may take his choice.—Eds.]

1st. The identity of the pensioner must be proved by the exhibition of his certificate, and by his oath and signature, before a justice of the peace, or other officer duly qualified to administer oaths, in accordance with the subjoined form, marked A.

2d. If application be made by, or on behalf of a widow, proof of her identity, that she is still living, and has not intermarried, must be furnished according the form herewith, marked B.

3d. Payments to a guardian will be made on evidence that the child or children are living, and that they are not over sixteen years of age; and a certificate from the proper authority that he is, *at the time*, acting in that capacity, agreeably to the annexed form, marked C.

4th. All pensions unclaimed for two years and upwards will, previous to the payment, be referred by the agent, with all the documents, to the Fourth Auditor of the Treasury for investigation; and, if found correct by the accounting officers, they will be returned to the agent for payment.

5th. No payments of pensions will be made for a less period than six months, either by the agents or the Fourth Auditor, except in the first payments becoming due to pensioners, or where they shall die, or the pension expires, previous to the time for the regular semi-annual payments.

J. L. EDWARDS.

A.

STATE OF _____
county, } ss:

Be it known, that before me, a _____, in and for the county aforesaid, personally appeared _____, a _____, pensioner, and made oath in due form of law that he is the identical _____ named in an original certificate of pension, bearing date at the Navy Department, on the _____ day of _____, and signed by _____, Secretary of the Navy; which certificate he exhibited to me, and by which it appears that he is entitled to a pension of _____ dollars per month.

[Signed.] A** B***.

Sworn and subscribed this _____ day of _____ 18 _____, before me,
C** D**, J. P.

B.

STATE OF _____
county, } ss:

Be it known, that before me, a _____, in and for the county aforesaid, personally appeared _____ widow of _____, and made oath in due form of law, that she is the identical _____ named in an original certificate of pension, bearing date at the Navy Department, on the _____ day of _____, and signed by _____, Secretary of the Navy; which certificate she exhibited to me, and by which it appears that she is entitled to a pension of _____ dollars per month, and that she has not intermarried, but continues the widow of the above mentioned _____.

[Signed.] A** B***.

Sworn to and subscribed this _____ day of _____ 18 _____, before me,
C** D**, J. P.

C.

STATE OF _____
county, } ss:

Be it known, that before me, a _____, in and for the county aforesaid, personally appeared _____ guardian of _____ orphan child of _____ and made oath in due form of law, that he is the guardian named in the accompanying certificate of guardianship; that his said wards are the children of _____ referred

to in an original certificate of pension, bearing date at the Navy Department, on the day of _____, and signed by _____, Secretary of the Navy; by which it appears they are entitled to a pension of _____ dollars per month, and that said children are still living, and not over sixteen years of age.

[Signed] A** B**.

Sworn and subscribed this _____ day of _____ 18____, before me,
C** D***, J. P.

[31.]

PENSIONS TO CHEROKEE WARRIORS.

[Rules of evidence for the information of certain Cherokee warriors.]

Regulations established by the Secretary of War for carrying into effect the act of Congress passed the 14th April, 1842, entitled "An act to provide for the allowance of invalid pensions to certain Cherokee warriors, under the provisions of the 14th article of the treaty of eighteen hundred and thirty-five."

WAR DEPARTMENT, April 26, 1842.

In substantiating claims under this law, the following evidence will be required:

The applicant must make a declaration,* under oath, before some officer of the United States, or of the Cherokee nation, duly qualified to administer oaths, stating how, when, and where he was wounded, and where he at present resides. He must also produce the testimony of at least two persons of known respectability, stating their knowledge of the claimant, giving his name, residence, and age, according to the best of their knowledge and belief; the reputation he has borne in the neighborhood where he resides; and they must be particular in stating the fact whether, during the whole time they have been acquainted with him, he has been considered as one of the Cherokee warriors who was wounded while in the United States' service during the late war with Great Britain. The affidavits must be duly authenticated.

The applicant, on obtaining such proof, must present himself to some officer of the medical staff of the army, who will carefully examine him, and give such a certificate respecting his disability as the facts will justify him in giving. The applicant's wound must be particularly described, and the degree of disability arising from the wound must be clearly stated. The examining surgeon is also required to be particular in stating any fact within his knowledge that may have the tendency to throw light on the claim, whether or not it may relate to the claimant's disability. The annexed form, prescribed for granting certificates to persons disabled while in the line of their duty in the United States' service, must be followed by the examining surgeons.

No claim will be allowed unless the claimant's name appears on the muster rolls.

* [The form of a "declaration" for "invalid pension," in the case of Cherokee warrior, has also been omitted, as of those for invalid pensions in the regular army and the naval service, already adverted to.—*Eds.*]

The pensions which may be granted will be paid only to the pensioner in person, by or under the direction of some officer of the United States, upon satisfactory evidence of the identity of the applicant. In no case will the powers of attorney be recognised.

J. C. SPENCER,

To the COMMISSIONER OF PENSIONS.

Secretary of War.

Surgeon's certificate in the case of a Cherokee invalid.

Having been requested by _____, one of the Cherokee tribe, who is now an inhabitant of _____, to examine him with a view of giving him such a certificate as may aid him in procuring a pension from the United States, under the act of the 14th of April, 1842, I hereby certify that I am fully satisfied, from the affidavits of _____ and _____, two persons in whose statements I repose entire confidence, that the aforesaid _____, an applicant for a pension, did actually serve in the regiment of the Cherokee Indians who were engaged on the side of the United States during the late war with Great Britain; that he was under the command of Captain _____, and that while in said service, and engaged in battle at or near _____, he was wounded by a [here particularly describe the wound, and say in what way he is affected by it,] and that in consequence of the injury received by said wound he is [here state the degree of disability—whether one-fourth one-third, one-half, three-fourths, or total—as the case may be,] disabled from obtaining his subsistence by manual labor.

Dated at _____, this _____ day of _____, Surgeon U. S. army.
18 ____.

[32.]

[Decision in relation to pension claims of certain widows. This decision was omitted in the sequence of its date.]

PENSION OFFICE, June 4, 1842.

In conformity with the opinion of the Attorney General [of May 31, ultimo,] the Secretary of War has decided that a pension cannot be granted to a widow under the act of 1838, whose husband was living at the time of the passage of the act of 1832, and particularly if he received an annuity under that act.

J. L. EDWARDS.

[33.]

[The two following forms may be taken as samples of that numerous class of pension certificates renewed from various causes.]

Invalid pension certificate renewed in lieu of a lost certificate.

I certify, That, in conformity with the invalid pension law of the United States, _____, late a _____ of the _____ was, on the _____ day of _____ inscribed on the pension list, roll of the _____ agency, at the rate of _____ per month; and that his name is now on the roll of the _____ agency, at the _____ per month, commencing on the _____ day of _____, one thousand eight hundred and thirty-
This certificate is issued in lieu of one dated on the _____ day of _____
Given at the Department of the Interior, this _____ day of _____, one thousand eight hundred and _____

Examined and countersigned.

Secretary of the Interior.

Commissioner of Pensions.

Widow's pension certificate renewed.

I certify that, in conformity with the act of February 2d, 1848, widow of _____, who was a _____ in the revolutionary war, is inscribed on the pension list at the rate of _____ dollars and _____ cents per annum, commencing on the 4th of March, 1848, and continuing for life, unless she should again marry; in which case, the pension is not payable after the time of such marriage.

Given at the Department of the Interior this _____ day of _____, one thousand eight hundred and _____.

Examined and countersigned.

_____,
Secretary of the Interior.

_____,
Commissioner of Pensions.

[34.]

Periodical statement or list of pensioners sent to pension agents.

PENSION OFFICE, _____, 18 ____.

Six: Be pleased to inscribe on your roll under the act mentioned, under the proper columns, the following names, and pay the pensions as directed opposite their names.

Respectfully,

[J. L. E.]

To _____, Esq., Pension Agent.

Names.	Rank.	Act.	Annual amount.	Commencem't of pension.	Continuation of pension.
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[35.]

OF BOUNTY LANDS.

[Regulations, decisions, and explanations for the information of applicants for bounty land under various acts.]

DEPARTMENT OF INTERIOR,
Pension Office, March 20, 1851.

New questions having been presented in the execution of the bounty land act of September 28, 1850, and some of the rules and regulations heretofore prescribed either misinterpreted or disregarded, the following instructions, approved by the Secretary of the Interior, are issued for the benefit of all persons interested.

1. The act of February 11, 1847, having restricted land bounty for service in the Mexican war to the non-commissioned officers, musicians, and privates of the regular army, the claims of commissioned officers in that service are for the first time recognized by the act of 28th September, 1850. It was not the intention of that act to bestow bounty land on the whole army of the United States wherever located, but only on those whose service was connected with, or had a direct reference to, that war; nor can the act be properly construed to embrace the officers and employees

attached to the War Department in Washington, their service not being of that kind which was contemplated. It is not necessary that officers should have been actually within the limits of Mexico, or on the borders thereof, provided they were actually engaged in the war, and directly connected with its operations.

2. In the war of 1812, troops were frequently called out by State authority, and not immediately mustered in the service of the United States. If the Federal Government paid such troops from the time of their enrollment, and before they were actually mustered in the service of the United States, that payment is equivalent to a recognition of their service from the date of the enrollment. The time for which they were paid by the United States furnishes a convenient and practical standard for estimating the period of service.

3. The conflicts with the Creek Indians, which commenced about 5th May, 1836, and ended 30th September, 1837, are considered as embraced by the act of 1850; large bodies of troops having been mustered in the United States service, and several engagements having occurred, attended by the loss of many lives in battle, within that period. The disturbances on the southwestern frontier in 1836; in the Cherokee country in 1836 and 1837; and the New York disturbances in 1838 and 1839, are not considered as embraced by the provisions of the act of September, 1850.

4. It has been settled that Indians who have been regularly mustered into the service of the United States, and formed a component part of the line of the army, were entitled to the benefit of the act. In the case of the Cherokees, who have an organized government and a judicial system in operation, the affidavit in support of an application for land bounty must be made before one of their judges, whose official character shall be certified by their principal chief. The Creeks having no judicial officer, the United States agent in that nation is authorized to administer the necessary oaths.

5. It has been heretofore stated that "teamsters and artificers were not entitled to land bounty;" but this is not to be so understood, if such teamsters or artificers belonged to the line of the army, and were regularly detailed for that particular kind of service.

6. Surgeons employed by a commanding officer at a stipulated rate of compensation, but not commissioned or belonging to the line of the army, are not entitled to land bounty.

7. It has been decided by the Department that the substitute performing the military service, and not the employer, is entitled to the land bounty; but when the engagement is partly performed by both, each is entitled to his share, according to the period of service.

8. Where the declaration of the claimant on oath, supported by a regular and authentic discharge, is in conflict with the military rolls, the former, as a general rule, will be preferred. And

where the rolls are altogether silent as to the claimant, the positive testimony of officers and soldiers with whom he served, and whose names are found on the rolls, will be received as evidence.

9. The act of September, 1850, exclude all persons who have received, or are entitled to receive, land bounty under any act of Congress heretofore passed. In all applications hereafter presented, (reasonable time being allowed for these instructions to circulate,) it will be required that the claimant shall state in his *declaration* that he has not received, nor is entitled to receive, such bounty.

10. The Department has decided that widows are entitled to the land bounty of deceased soldiers, if they were widows at the *passage of the act of September 28, 1850*. This is the law in its general application. But the widow of an officer or soldier *killed in battle* is entitled to the *maximum* allowance of one hundred and sixty acres, without reference to the period of her husband's service. And, although a married woman at the passage of the act, *if unmarried at the date of her application*, her claim is valid.

11. The death of an officer or soldier may be proved by satisfactory evidence, and if such officer or soldier should die after the declaration filed at the Pension Office, but before the issuing of the warrant, it shall be competent for the widow, or if there be no widow, for the minor children to apply for the said warrant and receive the same, on filing the necessary proofs of title.

Considerable anxiety prevails in some quarters in regard to the execution of this law, and much impatience is manifested as to whether applications forwarded have been received, and when the warrants are likely to be issued. A few explanations will probably suffice. Up to the time when the present Commissioner entered upon the discharge of his duties, (the 1st of December, 1850,) between thirty and forty thousand applications were received, but, as the force employed had been engaged upon other branches of the business, no special acknowledgment had been made to claimants. Early in December a printed circular was prepared and despatched by every mail, acknowledging the receipt of claims; but as it was impossible, for obvious reasons, that this circular could be forwarded to previous applicants, it was necessarily confined to the future.

Hundreds, without a knowledge of these facts, have been surprised that their own applications were neglected, when others, subsequently forwarded, have been acknowledged by mail. If those who sent their claims prior to the 13th of December will wait patiently, they will in due time be advised, either in the form of a warrant or by letter, assigning the reason of suspension or rejection. Up to this period, the office, with all its force faithfully applied, has only been able to issue between seven and eight thousand warrants on declarations received in October and early in November. Some time, therefore, must elapse before the numerous claims which arrived in November and early in

December can be finally acted on, or of which the claimants can be informed by the usual printed acknowledgment. Up to the present time, about one hundred thousand applications have been received, and every day's mail brings an increase, varying from five hundred to a thousand. The office is now issuing between a thousand and twelve hundred warrants a week; but more than eighteen months must elapse before the claims now on hand can be disposed of, or matured into the form of warrants. The number of applications having increased so far beyond what was anticipated, in order to supply the public demand, additional force was asked of Congress near the close of the late session, and the request would doubtless have been granted had it been made at an earlier period. If granted hereafter, the work will, of course, be accelerated, and the time for its completion shortened.

Singular misconceptions exist as to the time necessary to execute the law. The rule of the Department is, that each claim shall be acted on in turn, or in the order in which it is received; and this rule has been rigidly and impartially enforced.

It would be tedious and unnecessary to describe the process by which the claims are conducted from their first reception and acknowledgment to the final issuing of the warrants. In order to guard against error and imposition, they are carefully registered and classified, and subjected to separate examination in different hands, no advantages in any respect being gained by a hurried and ill-digested method of proceeding. With all these precautions errors will unavoidably occur, but means will also be employed to render them harmless.

All persons interested in the law, or desiring information in regard to it, are requested to address their communications directly to *this* office, to which they are referred if sent to any of the Departments.

J. E. HEATH,
Commissioner of Pensions.

[36.]

BOUNTY LAND FOR SERVICE IN THE REVOLUTIONARY WAR.

[Regulations for the officers and soldiers of the revolutionary war who acquired a right to land from the United States, but have not received it.]

PENSION OFFICE, August 10, 1850.

By an act of Congress of the 16th September, 1776, it is provided, that the officers and soldiers of the army on the continental establishment, who engaged for, and continued to serve, during the war, or until discharged by Congress, shall receive land in proportion to their rank.

N. B. Those who engaged for three years, or for any other period than during the war, are not entitled to land from the United States.

The following declaration must be filled up and sworn to by the claimant: [J. L. E.]

[Declaration and power of attorney of a revolutionary officer or soldier for bounty land.]

STATE OF _____, }
County of _____, } ss.

I, _____, aged _____ years, do upon oath testify and declare, that I entered the service of the United States on the _____ day of _____, in the year 17____, for the term of _____, and that I served in the company commanded by _____, in the regiment No. _____, commanded by _____, of the _____ line, and was honorably discharged on _____, in the year 17____, from the regiment commanded by _____. I further declare, that I have never received a warrant for the bounty land promised to me on the part of the United States, nor have I ever assigned or transferred my claim in any manner whatsoever: therefore,

Know all men by these presents, That I, _____, aforesaid, do hereby constitute and appoint _____ to be my true and lawful attorney, for me and in my name to demand and receive from the Secretary of War of the United States, a warrant for the quantity of land due to me as aforesaid; and my said attorney is hereby fully authorized and empowered to constitute and appoint one or more substitutes or attorneys under him for the special purposes above expressed.

[Signed.] A** B**.

Attest B** A**.

[Affidavit of witness.]

I, _____, aged _____ years, do upon oath declare, that I have been long acquainted with _____, who has subscribed the above declaration in my presence, and well know that he is the identical person he therein represents himself to be; and further, I do believe that he did perform the military service therein stated.

Attest, B** A**.

[Certificate of justice of the peace.]

Before me, _____, personally appeared the above named _____ subscriber to the foregoing declaration, and in my presence, acknowledged the power of attorney thereto subjoined, to be his free act and deed; and, likewise, personally appeared _____ who hath subscribed the above certificate of identity, both to me well known to be men of respectability and truth, and made solemn oath to the truth of the depositions by them respectively subscribed, this _____ day of _____, 18____.

C** D**, J. P.

[Certificate of clerk of court.]

In testimony that the above written _____ was a magistrate authorized to administer oaths, and take acknowledgments, &c., in the State of _____ at the above date, and that his name there subscribed appears to me to be his usual signature, I have hereunto affixed the county seal, and subscribed my name and quality, at this _____ day of _____, 18____.

[L. s.]

C** C**, Clerk.

[Regulations for the heirs or representatives of officers and soldiers of the revolutionary Army who were slain by the enemy, or who have died since the war, and have not received land from the United States.]

[WITHOUT DATE.]

By an act of Congress of the 16th September, 1776, it is provided that the officers and soldiers who engaged for, and continued to serve during the war, or until discharged by Congress, and the heirs ["the representatives"] of such officers and soldiers as shall be slain by the enemy, shall receive land in proportion to their rank.

N. B. Those who engaged for three years, or for any other pe-

riod than during the war, or who died of sickness, fatigue, or casualty, are not entitled to land from the United States.

The following declaration must be filled up and signed by the proper authorities: [J. L. E.]

[Declaration and power of attorney of an heir of a revolutionary officer or soldier for bounty land.]

STATE OF _____ } ss.
County of _____ }

I, _____, heir at law of _____, do, upon oath, testify and declare, to the best of my knowledge and belief, that _____ did enter the service in 17 _____, for the term of _____, and served as a _____ in the regiment No. _____, under the command of Colonel _____, of the _____ line; and that he continued in the service aforesaid until _____.

I further declare that I have never received a warrant for the bounty land promised to _____ on the part of the United States; nor do I believe that he ever received it, or transferred his claim to it in any manner whatsoever: therefore,

Know all men by these presents, That I, _____, aforesaid, do hereby constitute and appoint _____ to be my true and lawful attorney, for me and in my name to demand and receive from the Secretary of War of the United States, a warrant for the quantity of land due to me as aforesaid; and my said attorney is hereby fully authorized and empowered to constitute and appoint one or more substitutes or attorneys under him, for the special purposes above expressed.

[Signed.] A** B**.

Attest B** A**.

[Certificate of justice of the peace.]

Personally appeared the abovenamed _____, subscriber to the foregoing declaration, and made oath to the same, and in my presence acknowledged the power of attorney thereto subjoined to be _____ free act and deed, for the purposes therein mentioned.

Attest,

C** D**, J. P.

[Certificate of clerk of court.]

In testimony that the above written _____ was a magistrate authorized to administer oaths, and take acknowledgments, &c., in the State of _____ at the above date, and that his name there subscribed appears to me to be his usual signature, I have hereunto affixed the county seal, and subscribed my name and quality, at this _____ day of _____ 18 _____.

[L. s.]

C** C**, Clerk of Court.

[Form in proof of heirship applicable to the States of Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Ohio, Kentucky, Tennessee, Alabama, and other western States.]

STATE OF _____

At a court held for _____ county, _____ 18 _____, satisfactory evidence was adduced in court to prove that _____

[Filled up according to the facts.]

_____ and _____ heir-at-law in fee to _____ late a _____ in the _____ regiment [of the Continental or State line.]

I, _____, Clerk of the county court, do certify, that the above evidence is taken from the records in my office. In testimony whereof I have hereunto affixed my official seal, this _____ day of _____ 18 _____.

[L. s.]

C** C**, Clerk of Court.

Form of heirship applicable to the States of Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, Vermont, New York, New Jersey, South Carolina, Georgia.

STATE OF _____ } ss.
County of _____

OFFICE _____ 18 .

I certify that satisfactory evidence was adduced to me, to prove that

[Filled up according to the facts.]

the _____ and _____ heir-at-law in fee to _____ who was
a _____ in the _____ regiment of [the Continental or State line.]

Given under my hand and seal of office, this _____ day of _____ 18 .
[L. S.] _____ Co. Co., Judge, &c.

Revolution Bounty Land Warrant—transmitted to claimant or warrantee direct, without notification of issue from the Pension Office, and without instructions from the General Land Office as to location, &c.

No. _____

Pursuant to an act of Congress, entitled, "An act to extend the time for issuing military land warrants to the officers and soldiers of the revolution," approved January 27th, 1835, and an act of Congress entitled "An act to provide for satisfying claims for bounty land for military services in the late war with Great Britain, and for other purposes," approved July 27th, 1842, and an act of Congress entitled "An act giving further time for satisfying claims for bounty lands, and for other purposes," approved June 26th, 1848,

[Filled up with the name of the warrantee and the facts of each case.]

entitled to _____ acres of land,
to be LOCATED as is provided for warrants under the first section of the aforementioned act, approved July 27th, 1842, and this warrant shall not be assignable to any person whatever.

Given at the Department of the Interior, this _____ day of _____, one
thousand eight hundred and _____

Registered and countersigned :

Secretary of the Interior.

Commissioner of Pensions.

[37.]

BOUNTY LAND FOR FIVE YEARS SERVICE IN THE WAR OF 1812, OR DURING THE WAR.

[Regulations and instructions for the use of applicants for bounty land for military service in war of 1812, and for identifying claimants in lieu of their lost discharges.]

PENSION OFFICE, August 10, 1850.

The existing laws providing land bounty to the soldiers of the war of 1812 are applicable to those men only who enlisted in the regular army for "five years," or for "during the war," and were "honorably discharged," or died whilst in service. A surviving soldier of the war of 1812, on his application for bounty land, is required to produce his original discharge, and his oath, duly authenticated, showing that he is the individual mentioned in the discharge; but if the discharge is lost, he must identify himself by his affidavit, according to the printed form for that purpose, headed "Form for lost discharges."

The heirs of a deceased soldier of the war of 1812, in their application for bounty land, are required to state as explicitly as practicable when and where the soldier enlisted, the name or

number of the regiment to which he belonged, the name of his captain, or the names of some of the other officers under whom he served; for this latter purpose no forms are prescribed. The facts, however, must be set forth under oath, and the affidavits must be duly authenticated. The magistrates who may administer the oaths must certify to the credibility of the witnesses, and the official character and signature of the magistrate must be certified by the proper officer under his seal of office.

Heirship must be established by proof taken before a court of record, according to the laws of the State in which the heirs reside. The forms will direct the clerks of the courts how to draw up the certificates, to which must be attached their official seals.
[J. L. E.]

"Form for lost discharges."

STATE OF _____, }
county, } ss:
I, _____, do declare that I was a _____ in the company commanded
by _____ of the _____ regiment of _____; that I was enlisted
at _____ by _____, on the _____ day of _____, one thou-
sand eight hundred and _____, for the term of _____, and served
faithfully until the _____, one thousand eight hundred and _____
when I was honorably discharged at _____ by _____, on account of
_____, and was last paid by _____, paymaster; and my discharge,
which duly testified all these particulars, was lost by _____
[State by what means.]

Sworn and subscribed to, before me, this _____ day of _____, one thou-
sand eight hundred and _____ C** C**, Clerk, &c. [Signed.] A** B**.

N. B. The official attestation of the Secretary of State, or the county clerk, or other proper officer, to the *quality* and *signature* of the magistrates before whom the depositions were taken, will be required; excepting, however, when the depositions shall have been made before a *notary public*; his official attestation in such case is deemed sufficient; but the certificate of a notary, to the quality and signature of another magistrate is inadmissible.

[Notification to warrantee of the issue of his warrant, and the certificate of right to locate it, both of which, certificate and warrant, are sent to the General Land Office, whence they are sent to the warrantee with instructions for location, which being done, all are returned to the General Land Office for patenting.]

PENSION OFFICE, June _____, 1851.

You are hereby notified that military land warrant No. _____ for _____ acres, issued on the _____ day of _____, 185 _____, in favor of _____ who was a _____ and that the certificate of the right to locate said warrant has been sent to the General Land Office, from whence it will be sent to you, accompanied by the necessary instructions in regard to location.

To _____.

Commissioner of Pensions.

[Instructions from the General Land Office to be observed in locating the warrant for 1812.]

GENERAL LAND OFFICE,

_____, 18 _____.

The first section of the act of Congress approved July 27, 1842, authorizes that the accompanying certificate from the Department

of the Interior, be located in the *name of the warrantee*, (the same not being assignable,) on any *quarter section* of public land subject to *private entry* at any of the land offices of the United States.

Special care must be taken that the location shall not interfere with a tract of land to which the right of pre-emption has attached, or is about to attach, in virtue of the provisions of the act of Congress, approved September 4th, 1841, entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights."

Inasmuch as settlers claiming such right of pre-emption are required by the aforesaid act "within thirty days next after the date of such settlement, to file with the register of the proper district a written statement describing the land settled upon, and declaring the intention of such person to claim the same under the provisions of the act," it inevitably results that, until the lapse of such term of thirty days from the date of the attempted location thereof, (except in cases where such evidence may be filed in advance of such legal period,) it cannot be determined whether or not such location be clear of interference with a settler's claim. The register of the land office at which the location is desired to be made will, therefore, note on this document (in ink) the date when the same is received at his office, and indicate thereon (*in pencil*) the tract of land desired to be located, and make a corresponding annotation (*in pencil*) on the *tract book* and *township map*, and so soon as it shall have been determined that the desired location can be admitted, the register will make the appropriate entry permanently (*in ink*) on the tract book and map, and endorse his certificate of location on this paper, to be forwarded to this office for the purpose of having a patent issued thereon.

Commissioner of the General Land Office.

[Certificate of right to locate warrant for war of 1812, to be returned by the register and receiver to the General Land Office, with the warrant as appended, after location, to be accompanied with their certificates of location, as under the act of 1847, *sequel*.]

DEPARTMENT OF THE INTERIOR.

Office of the Commissioner of Pensions.

It is hereby certified, that the land warrant No. [28,000, for 160 acres] has been issued in the name of [A. W., who was a private in the company commanded by Captain Jones, of the forty-ninth regiment of United States infantry,] [under date of June 26, 1850,] and will be deposited in the General Land Office, at the seat of Government; and that, pursuant to the provisions of the act of Congress, approved on the 27th day of July, 1842, entitled "An act to provide for satisfying claims for bounty lands for military services in the late war with Great Britain, and for other purposes," this certificate of right to LOCATE said warrant on any quarter section of land subject to private entry, will be received at any of the land offices of the United States, under the regulations and restrictions set forth in the accompanying statement of the Commissioner of the General Land Office.

After the location of this certificate, it is to be surrendered to the General Land Office, whence the patent will issue.

Given under my hand at the Pension Office, this [twenty-sixth] day of [June, 1851.]

To [Mr. A. W., Baltimore, Md.]

Commissioner of Pensions.

Warrants for war of 1812—Single bounty.

No. 28,000.

160 acres.

Pursuant to an act of Congress entitled "An act to allow further time to complete the issuing and locating of military land warrants during the late war," approved January 27th, 1835, and an act of Congress entitled "An act to provide for satisfying claims for bounty land for military services in the late war with Great Britain, and for other purposes," approved July 27th, 1842, and an act of Congress entitled "An act giving further time for satisfying claims for bounty lands, and for other purposes," approved June 26th, 1848,

[Filled up according to the facts in each case.]

I, late a _____ in the company commanded by _____ of the _____ regiment United States _____ entitled to one hundred and sixty acres of land, to be located as is provided for under the first section of the aforementioned act, approved July 27th, 1842, and this warrant shall not be assignable to any person whatever.

Given at the Department of the Interior, this _____ day of _____, one thousand eight hundred and _____

Registered and countersigned.

Secretary of the Interior.

Commissioner of Pensions.

[38.]

BOUNTY LAND UNDER ACT OF 11TH FEBRUARY, 1847.

[Instructions and forms to be observed by persons applying to the Pension Office for bounty land under the act of February 11th, 1847, for service in the Mexican war, or for money in lieu of land, under the act of March 3d, 1827.]

PENSION OFFICE, March 4, 1847.

In order to carry into effect the provisions of the ninth section of the act of 11th February, 1847, the Secretary of War has directed that the following regulations shall be observed :

It will be observed, on reading the ninth section of the law which accompanies these regulations, that there are six classes of persons provided for, viz :

1. Those non-commissioned officers, musicians, and privates of the regular army who have served, or may serve, in Mexico during the present war with that country, and who have served out the full period of their enlistment, and have been honorably discharged, or who may have been, or may be, honorably discharged before the expiration of the period of their enlistment, in consequence of wounds received, or sickness incurred, in the course of such service.

2. The representatives of such persons as are mentioned in the preceding paragraph, who may die in the service, or after being discharged, and before the issuing of a certificate or warrant.

3. Non-commissioned officers, musicians, and privates, who have been mustered, or may be mustered, for twelve months, in any volunteer company, who have served, or may serve, until the end of the war with Mexico, and have been, or may be, honorably discharged by reason of the expiration of their enlistment, or in consequence of disability from wounds received, or sickness incurred, in said service.

4. The representatives, as designated by the act, of such volunteers as shall have died, or may die, in the service, or after having been honorably discharged, and before the issuing of a warrant or certificate.

5. Volunteers received into the service since the commencement of the Mexican war, for less than twelve months, who shall have marched to the seat of war, and shall have served until honorably discharged.

6. The representatives, as designated in the act, of volunteers received into the service for less than three months, and who may have died in the service, or after having been honorably discharged, and before the passage of this act.

In order to substantiate a claim for land or scrip, under the provisions of the foregoing section of the act, the persons described in the first class of these regulations will send to, or deposit with, the Commissioner of Pensions, Washington city, evidence of enlistment, service, and honorable discharge, as required by law. The best evidence on these points is held to be the original discharge of the applicant, which must, in all cases, be produced if in existence, accompanied by the applicant's affidavit, (vide form marked A,) setting forth that he is the identical person mentioned in the discharge; and in case of the loss or destruction of the discharge, the applicant will make oath to the fact, and produce the affidavit of some creditable witness in corroboration of his statement. The claimant must set forth the regiment and company to which he belonged; the time of entering the service; the time, place, and manner of his leaving the same; and he must show, by the testimony of a commissioned officer, that he was honorably discharged.

In case the claimant should desire scrip instead of land, he must make his request in writing, according to the form marked B, accompanying these regulations.

The rules in the paragraphs immediately preceding, are applicable to volunteers mentioned in classes Nos. 3 and 5.

The representatives of deceased soldiers and others, as mentioned in classes 2, 4, and 6, must produce evidence of the enlistment, service, and death of the original claimant. If the soldier was discharged, the discharge must be produced, if in existence. If not, the same proof will be required as in other cases of lost discharges; and if he died in the service, the certificate of his captain or other officer who commanded the company to which he belonged, must be produced.

The persons who may claim must produce evidence of their relationship to the deceased, and show the degree of consanguinity they bore to him. This proof must be drawn in conformity with the form marked C, and may be taken before any court having probate jurisdiction, or any officer authorized by law to administer oaths for general purposes. In case the father claims, he must show that no wife or child of the deceased is living; and

in case the mother claims, she must show that neither the wife, child, nor father of the deceased is living.

J. L. EDWARDS.

NOTES.—1. It is proper to state, for the information of claimants under the 9th section of the act of February 11, 1847, that, in every instance in which a volunteer soldier was discharged on a surgeon's certificate, that paper must be sent to the Pension Office, with the claimant's affidavit, unless it has been otherwise disposed of. If lost, he should state the fact under oath.

2. The official character and signature of the magistrate who may administer an oath must be certified by the proper officer, under his seal of office. The certificate must accompany every case, and attached to the paper on which the affidavit is written. No affidavit taken before a notary public can be admitted as evidence, except in the States of New Hampshire, Connecticut, Virginia, South Carolina, Wisconsin, and Indiana, in which States laws have passed giving such officers power to administer oaths for general purposes.

3. The relinquishment of the right to bounty land must be signed by the claimant, if he wishes to receive scrip in lieu of land, and the relinquishment must be witnessed by some one who writes a legible hand.

4. Volunteers in some cases have been discharged from the service without ever having received a certificate to that effect from the officer who discharged them. Such cases have occurred where an entire regiment has been mustered out of service. In such a case the claimant must make the oath of identity required by the regulations, and add to the statement of his service the following words: "I never received any discharge. The regiment to which I belonged was mustered out of the service."

5. No assignment of land or scrip can be made until after a land warrant has been issued from the Pension Office, or a certificate of scrip, as the case may be.

6. As there were some six months' volunteers, who did not march to the seat of war, it is indispensably necessary that every soldier who was so engaged should produce the certificate of the commanding officer of the regiment or company to which he belonged, showing that he was at the seat of war. The post to which the soldier marched should be mentioned.

A.

STATE OF _____, COUNTY—__.

On this _____ day of _____, in the year one thousand eight hundred and _____, personally appeared before me, the undersigned, a justice of the peace for the county and _____ above mentioned, _____, who, being duly sworn according to law, declares that he is the identical _____ who was a _____ in the company commanded by Captain _____, in the regiment _____, commanded by _____; that he enlisted on the _____ day of _____, for the term of _____, and was discharged at _____ on the _____ day of _____, by reason of _____.

[Signed.] A** B***.

Sworn to and subscribed before me, the day and year above written,

C** D***, J. P.

[If The discharge of a soldier, if he has one, must in every case accompany the above affidavit.

B.

[Residence and date.]

SIR: I request that my claim to bounty land, under the ninth section of the act of the 11th February, 1847, entitled "An act to raise for a limited time an additional military force, and for other purposes," may be examined; and if I am entitled to land, I wish to relinquish, and do hereby relinquish, my right thereto, and in lieu thereof to receive a Treasury scrip for one hundred dollars, (or twenty-five dollars, as the case may be.)

[Signed.] A** B***.

In presence of, C** D***, J. P.

To the COMMISSIONER OF PENSIONS.

C.

It is hereby certified that satisfactory proof has been exhibited before the*
 , for the county of , in the State of , by
 the affidavits of and , who are persons entitled to credit,
 that and are the only surviving† children of ,
 who was a in the United States service.

In testimony whereof, I have set my hand and seal of office this day of
 , in the year of

[L. s.]

C** C**,

of the court.

Instructions and forms [supplementary to the foregoing] to be observed by persons applying to the Pension Office for bounty land, under the acts of February 11, 1847, and May 27, 1848, or for money in lieu of land under the act of March 3, 1849.

PENSION OFFICE, October, 1849.

Every person applying for bounty land, or money in lieu thereof, must send his discharge to the Pension Office, if he ever received one, and has it in his power to send it. If his discharge has been lost or destroyed, he must swear to the fact of its loss or destruction. If discharged on surgeon's certificate of disability, that certificate must be sent with the discharge, unless it has been otherwise disposed of; in which case, it must be shown how it has been disposed of.

Volunteers in some cases have been discharged from the service without ever having received a certificate to that effect from the officer who discharged them. Such cases have occurred where an entire regiment has been mustered out of the service. In such a case, the claimant must make the oath of identity required by the regulations, and add to the statement as to his service the following words: "I never received any discharge. The regiment to which I belonged was mustered out of the service."

In case the claimant should desire money instead of land, he must make his request in writing, according to the following form, and he must sign it, and the same must be witnessed by some one who writes a legible hand.

JAMES L. EDWARDS.

* The evidence may be taken before any officer authorized by law to administer an oath for general purposes.

† If there be no children, and the father claims, the facts must be stated, and the form will be varied to suit the case; and if there be neither child nor father living, and the widow claims, the form will be so changed as to show the facts in the case.

¶ Under the act of May 27, 1848, brothers and sisters may claim, provided the soldier left neither father, mother, widow, nor child. The foregoing form will be varied to suit the case. If a father claims, he must prove by two credible and disinterested witnesses that he is the father, and that the soldier, his son, left neither widow nor child. If a mother claims, she must show that the soldier left neither father, widow, nor child. If a brother claims, he must prove that the soldier left neither father, mother, widow, child, nor sister, and that he is the only surviving brother. The evidence will be varied to suit the case, if more than one brother applies, or sisters and brothers, or a sister or sisters only. In every case it must be clearly shown that the persons who apply are the only heirs under the acts of February 11, 1847, and May 27, 1848.

[Request for money.]

[Residence, date, 1849.]

SIR: I request that my claim to bounty land, under the ninth section of the act of the 11th of February, 1847, entitled "An act to raise for a limited time an additional military force, and for other purposes," may be examined; and if I am entitled to land, I wish to relinquish, and do hereby relinquish, my right thereto, and in lieu thereof, to receive one hundred dollars, (or twenty-five dollars, as the case may be.)

[Signed.] A** B***.

C** D**, J. P.

In presence of,

To the COMMISSIONER OF PENSIONS.

No copy of a discharge, or any other paper, can be admitted as evidence, unless the original be on file in some public office; in which case a duly certified copy from the office where the original is on file must be produced.

Every applicant for bounty land or scrip* must swear to a declaration, before an officer duly authorized to administer oaths for general purposes, according to the following form:

[J. L. E.]

Certificate of identity.

STATE OF _____ }
county, } ss:

On this _____ day of _____, in the year one thousand eight hundred and _____, personally appeared before me, the undersigned, a justice of the peace for the county and _____ above mentioned, _____, who, being duly sworn according to law, declares that he is the identical _____ who was a _____ in the company commanded by Captain _____, in the regiment _____, commanded by _____; that he enlisted on the _____ day of _____ for the term of _____, and was discharged at _____ on the _____ day of _____, by reason of _____.

[Signed] A** B***.

Sworn to and subscribed before me, the day and year above written.

C** D**, J. P.

*The following description of persons are not entitled to land, or money in lieu thereof: 1. Those who are discharged for disability not incurred while in the service. 2. Those volunteers who did not march to the seat of war. 3. Those who deserted. 4. Those who were not honorably discharged. 5. Those who were discharged at their own request. 6. Rejected recruits, or persons who were not fit for service when they enlisted.

CLAIMS BY HEIRS OR REPRESENTATIVES.—The representatives of deceased soldiers, who may apply for land or money, must state in what regiment and company the deceased served, and when and where he died. If he died after he left the service, the soldier's discharge must be sent to the Pension Office, if in the power of the claimant to do so. If lost or destroyed, the fact must be established by an affidavit.

If the deceased left a widow and children, or child, they are jointly entitled to land; if a widow and no child, or a child or children and no widow, or the child or children, as the case may be, will be entitled to the land warrant.

If he left neither wife nor child, the father, if living, will be entitled.

If he left neither widow, child, nor father, the mother, if living, will be entitled.

If he left neither wife, child, father, or mother, the brothers and sisters, whether of the whole or half blood, will be jointly entitled, or the sole brother or sister, if there be but one.

If he left neither widow nor child, father nor mother, brother nor sister, then no person is entitled to land, as his representative.

In all cases of an application by the widow, or widow and children, the widow must make a declaration under oath, stating her name before her marriage to the deceased, the time and place of her marriage, and by whom she was married to the deceased, with the time and place of the husband's death, according to the best information she has on the subject.

Form of widow's declaration.*

STATE OF _____, }
 county, } ss.
 of _____ makes oath and says that she is the
 widow of _____, deceased, who was a _____ in company _____,
 of the _____ regiment _____ during the late war with Mexico;
 that the said _____ died at _____, on or about the
 day of _____, A. D. 184 _____, as she verily believes.
 She further states that she was married to the said _____, in
 on the _____ day of _____, in the year eighteen hundred and _____,
 _____, by one _____, a _____, and that her
 name before her said marriage was _____, and that there are
 _____ children of the said _____ now living, whose names are
 as follows: [*Here state the names; or, if there are no children, state that the de-*
ceased left no child or children,] who are the only surviving children of the said
 _____, deceased.

[Signed] A^{ss} B^{ss}.
 18 .
 C^{ss} D^{ss}, J. P.

Sworn to and subscribed before me, on this _____ day of _____

*This declaration of the widow must be accompanied by *satisfactory proof of the marriage*, and of all other facts necessary to establish the claim. If married in any State or county where any public records of marriages are kept, the marriage should be proved by a duly certified copy of the record, or by the testimony of credible witnesses who were present at the marriage; and where such testimony exists, and is not produced, satisfactory reasons must be stated, under oath, why it is not produced; and in all cases where record evidence or the testimony of witnesses who were present at the marriage *could be procured and is not*, the claim will be rejected, unless other testimony of a *very full and satisfactory character* is produced. If it is shown, by affidavit, that *no record evidence or testimony of eye-witnesses can be procured*, the claimant may then produce the best other evidence in her power, such as the testimony of witnesses who were acquainted with her and her husband during his lifetime, knew them to live together as man and wife, and that they were reputed so to be, and that the fact of their having been married was never called in question by their acquaintances.

☐ In no case, however, will the mere statement of the witnesses, that the claimant is the widow of the deceased, be taken as evidence of the marriage; but the witnesses must state the facts and circumstances from which they derive their knowledge or opinion that she is the widow of the deceased.

A certificate from the clergyman or magistrate who solemnized the marriage is not competent evidence, unless the genuineness of the certificate be proved, and the person who gave it be shown to have been authorized to solemnize marriages.

If the claim be filed on behalf of a child or children, father, mother, brother, or sister, or brothers and sisters, the above form should be varied according to the facts of the case; and in every case the facts necessary to establish the claim must be *proved by two witnesses*, certified by the magistrate, before whom the testimony is taken, to be credible witnesses, and who must also swear that they are disinterested.

In case of a claim by a child, or children, it must be proved that the deceased left no widow, and no other child save those named in the application.

In case of a claim by the father, it must be proved that no widow or child of the deceased is living.

In case of a claim by the mother, it must be proved that there is no widow, child, or father living.

In case of a claim by a brother or sister, or brothers and sisters, it must be proved that there are neither widow, child, father, or mother of the deceased living, nor any other brother or sister save those named in the application.

All affidavits must be *subscribed by the witnesses*, and certified by the justice of the peace or other officer before whom the testimony is taken. The officer must also certify that the witnesses are credible persons.

☐ The official character and signature of the magistrate who may administer the oath must be certified by the proper officer, under his seal of office. Such a certificate must accompany every case. The clerk of the court, prothonotary, or other officer, who may certify, must affix his official seal if he has one, and if it has no

Notice, to claimant or agent, of certificate or warrant for bounty land.

PENSION OFFICE, _____, 18—.

SIR: You are hereby notified that your claim under the 9th section of the act of February 11th, 1847, allowing bounty land or scrip, at the option of the claimant, has been allowed, and the Commissioner of the General Land Office has been duly notified thereof. He will give you further information on the subject in due time.

To Mr. _____.

_____,
Commissioner of Pensions.

Rules to be observed in the location of land warrants for military service in the war with Mexico, provided by the act of February, 11, 1847, and the explanatory act of May 27, 1848.

GENERAL LAND OFFICE,
October, 1847.

1. Special care must be taken not to interfere with a tract of land to which there may be a *right of pre-emption*, or upon which there shall be an *an actual settlement and cultivation*, whether the occupant be entitled to the right of pre-emption or not.

2. Soldiers may locate their warrants on lands to which they may be entitled to a pre-emption in their own right, whether such lands have been offered at public sale or not; but the *assignees*

device or inscription by which it can be distinguished from any other seal, or if he has no public seal of office, the certificate of a member of Congress, proving the official character and signature of the certifying officer, should accompany the papers.

In every instance where the certificate of the certifying officer who authenticates the papers is not written on the same sheet of paper which contains the affidavit or other papers authenticated, the certificate must be attached thereto by a piece of tape or narrow ribbon, the ends of which must pass under the seal of office of the certifying officer, so as to prevent any paper from being improperly attached to the certificate.

No affidavit taken before a notary public can be admitted as evidence, except in New Hampshire, Connecticut, Virginia, South Carolina, Wisconsin, and Indiana, in which States laws have passed giving such officers power to administer oaths for general purposes.

In some cases a claimant may, for reasons best known to himself, wish to change the direction he has first given in relation to the transmission of his land or money certificate. In such cases the claimant must swear that he belonged to a particular regiment and company, and was discharged; and he must also produce the affidavit of some respectable person as to his identity.

Applicants for land, for pension, and for monthly pay, must be made entirely distinct from each other. The affidavits or other papers must be written on separate sheets, and put under separate envelopes. Original claims must be kept entirely separate from all other papers. A departure from this rule will greatly retard the investigation of the claims.

In writing to the Pension Office, each particular case or subject requires a separate letter. Lists of names accompanying claims are an exception to this rule. Every one who sends claims should write a letter containing the claimants' names, and let it accompany the papers.

The christian name of the soldier must in all cases be written in full. A deviation from this rule cannot be sanctioned. It is important that the land warrant should contain the name of the soldier in full.

As there were some six months' volunteers who did not march to the seat of war, it is indispensably necessary that every soldier who was so engaged should produce the certificate of the commanding officer of the regiment or company to which he belonged, showing that he was at the seat of war. The post to which the soldier marched should be mentioned.

No assignment of land, or money in lieu of land, can be made until after a land warrant has been issued from the Pension Office, or a certificate for the money, as the case may be.

of such warrants can only locate them on lands subject to "private entry," at the minimum price of \$1 25 per acre.

3. The soldier, his widow, or heirs, holding a warrant in his, her, or their own right, may locate the same on any legal subdivision of public land, subject to "private entry," where the minimum price exceeds \$1 25 per acre, by reckoning the warrant at \$1 25 per acre, for the number of acres therein specified, and paying the excess in money.—See act of Congress of August 14, 1848.

4. Any legal subdivision may be located by a warrant either in the same or different sections and townships, provided the several tracts "are *contiguous*, or separated only by a line, and make a compact form in one body."

5. The affidavit required of the locator of a warrant, showing that the land is vacant, may be made either by himself, or by any disinterested credible witness, to the satisfaction of the register and receiver of the local land office.

To prevent interference with the rights of persons entitled to the right of pre-emption, or claiming by settlement and cultivation only, the party applying to locate the warrant, will be required to file an affidavit, substantially in the following form :

I, _____, being desirous of locating the _____, in township No. _____, in the district of lands subject to sale at _____, with the within warrant No. _____, do solemnly swear (or affirm) that from my own knowledge of the fact, after actual inspection of the said tract of land, on or about the _____ day of _____, there was not, at that time, an actual settlement and cultivation upon any part of said land, nor was there any person or persons residing upon it; and I do verily believe that there is no actual settlement and cultivation, or any person or persons residing upon any part of said land at this time.

A** B**.

Subscribed and sworn to before me, this _____ day of _____, 18____.

C** D**, J. P.

The register of the land office at which the location is desired to be made will thereupon note on this document (in ink) the date when the same is received at his office, and indicate thereon (in pencil) the tract of land desired to be located, and make a corresponding annotation (in pencil) on the tract book and township map, and so soon as it shall have been determined that the desired location can be admitted, the register will make the appropriate entry permanently (in ink) on the tract book and map.

The register will also examine the assignments (if any) and see that they have been made substantially in accordance with the following form, to wit:

For value received I, (or we) _____, do hereby sell and assign unto _____, all my (or our) right and title to the within certificate or warrant, No. _____, for _____ acres of land.

Witness my hand this _____ day of _____, 18____.

[Signed.] A** B**.

Acknowledged before me, this _____ day of _____, 18____.

C** D**, J. P.

I also certify that the date of this my certificate to the foregoing assignment, was filled up by me on the day on which the same was acknowledged before me in my official capacity as aforesaid.

Attest :

E. F., Notary Public, or J. P.

If the assignment be acknowledged before any person not using

a seal, it must be accompanied by a certificate, under seal from the proper officer, as to the official character of the person before whom the assignment may have been acknowledged. Should the assignment be made by an attorney for the warrantee, the power of attorney under which he acts must accompany the assignment; and, to avoid suspicion, the assignment should in all cases, when practicable, be made on the back of the warrant.

Justices of the peace and notaries public are specially requested, in certifying to the acknowledgments of soldiers, either to powers of attorney, or assignments of warrants, to fill up the *dates* on the *days* on which such instruments are executed; as such blanks left by them to be filled up after the emanation of the warrant, is improper on the part of such officer, and in fraud of the act of Congress upon that subject; as a matter of precaution, I also suggest, that whenever the soldier is unknown to the justice or notary, *proof, or oath of identity*, should in all cases be required.

J. BUTTERFIELD,

Commissioner of the General Land Office.

Certificate required by the General Land Office of the warrantee on his application at a land office to locate his warrant, with the register and receiver's certificate of location.

LAND WARRANT CERTIFICATE, No. [1.]

REGISTER AND RECEIVER'S No. [30.]

I, [James Johnson,] being desirous of locating the [northeast] quarter of section No. [thirty-one] in township No. [twelve north,] of range No. [twelve west,] in the district of lands subject to sale at the land office at [Edwardsville, Illinois,] with the attached military land warrant certificate, No. [1,] issued under the provisions of the ninth section of the act of Congress, approved February 11th, 1847, do solemnly [swear] that from my own knowledge of the fact, after actual inspection of the said tract of land, on or about the [first] day of [September,] A. D. [1850,] there was not at that time an actual settlement and cultivation upon any part of said land, nor was there any person or persons residing upon it; and I do verily believe that there is no actual settlement and cultivation, or any person or persons residing upon any part of said land at this time.

[JAMES JOHNSON.]

Subscribed and sworn to before me, this [15th day of September, A. D. 1850.]

[A. NORTHCROSS,] *Register of Land Office.*

I request my patent to be sent to [Whitehall, Greene county, Illinois.]

JAMES JOHNSON.]

Location of military bounty land warrant No. 1, in pursuance of application with the above affidavit of the warrantee.

LAND WARRANT, No. 1.

REGISTER AND RECEIVER'S No. 30.

LAND OFFICE, EDWARDSVILLE, ILLINOIS, *September 15, 1850.*

We hereby certify, that the attached military bounty land warrant, No. 1, was on this day received at this office, from James Johnson, of Greene county, State of Illinois.

A. NORTHCROSS, *Register.*

JAMES RICHARDS, *Receiver.*

I, James Johnson, of Greene county, State of Illinois, hereby locate the northeast quarter of section No. thirty-one, in township No. twelve north, of range No. twelve west, in the district of lands subject to sale at the land office at Edwardsville, Illinois, containing one hundred and sixty acres, in satisfaction of the attached warrant numbered 1.

Witness my hand this fifteenth day of September, A. D. 1850.

Attest:

A. NORTHCROSS, *Register.*

JAMES RICHARDS, *Receiver.*

JAMES JOHNSON.

LAND OFFICE, EDWARDSVILLE, ILLINOIS, September 15, 1850.

We hereby certify, that the above location is correct, being in accordance with law and instructions.

A. NORTHCROSS, *Register*.
JAMES RICHARDS, *Receiver*.

Land warrant No. 1, as above located.

DEPARTMENT OF THE INTERIOR,
Office of the Commissioner of Pensions.

It is hereby certified, that the land warrant No. 1—160 acres, has been issued in the name of James Johnson, late a private in Captain Thomas Montgomery's company of the second regiment of Illinois volunteers, under date of June 30th, 1850, and will be deposited in the General Land Office, at the Seat of Government; and that pursuant to the provisions of the subjoined 9th section of the act of Congress, approved on the 11th day of February, 1847, entitled "An act to raise for a limited time an additional military force, and for other purposes," this certificate of right to locate said warrant on any quarter of land subject to private entry, will be received at any of the land offices of the United States, under the regulations and restrictions set forth in the accompanying statement of the Commissioner of the General Land Office.

After the location of this certificate, it is to be surrendered to the General Land Office, whence the patent will issue.

Given under my hand, at the Pension Office, this 30th day of June, 1850.

To Mr. _____,

Commissioner of Pensions.

Notice, to claimant or agent, of certificate issued for money instead of land.

PENSION OFFICE, _____, 18—.

Sir: You are hereby notified that your claim under the 9th section of the act of February 11, 1847, allowing bounty land, or money in lieu thereof, under the act of the 3d March, 1849, at the option of the claimant, has been allowed, and the Secretary of the Treasury has been duly notified thereof. For any further information on the subject you will apply to him.

To Mr. _____,

Commissioner of Pensions.

Certificate of money in lieu of land.

No. _____

Pursuant to the 9th section of the act of Congress passed on the 11th February, 1847, entitled "An act to raise for a limited time an additional military force, and for other purposes,"

(Here insert the name of the party in whose favor the certificate issues.)

late a _____ in the company commanded by Captain _____ of the _____ regiment of _____ is entitled to _____ acres of land; but as the claimant prefers money in lieu of land, this certificate for _____ dollars is issued to the end that the Secretary of the Treasury may satisfy the claim, in conformity with the provisions of said act of the 3d of March, 1849.

Given at the Department of the Interior, this _____ day of _____ one thousand eight hundred and _____,

Secretary of the Interior.

Examined and countersigned:

Commissioner of Pensions.

Form inclosing the certificate to the Secretary of the Treasury.

PENSION OFFICE, _____, 18—.

Sir: I enclose herewith certificate for \$ _____ in lieu of land in the following case:

(Insert the name or names.)

P A, of (name the place,) is the agent who sent to this office the papers in support of the claim

To the SECRETARY OF THE TREASURY.

Commissioner of Pensions.

[If, upon examination, the applications for bounty land under the act of 11th February, 1847, proves defective, the parties are notified of the same, as follows, before the above recited forms can be consummated.]

PENSION OFFICE, _____ 18—.

SIR: The papers in support of the claim of _____, to bounty land, under the act of 11th February, 1847, have been examined and filed. These papers are defective, and further proof is wanted. The Department requires satisfactory answers to the inquiries contained in this sheet, which must be sworn to, by persons who are acquainted with the facts, before a magistrate duly qualified to administer oaths. The official character and signature of the magistrate must be certified by the proper officer, under his seal of office; and the magistrate, who may administer the oaths, must certify that the witnesses are persons in whose statements entire confidence may be reposed. The question must be written at length, and the answer must follow each question in the order in which it is propounded. [J. L. E.]

DEPARTMENT OF THE INTERIOR, *September 5, 1849.*

SIR: In view of the many frauds attempted to be practised upon the Pension Office, by persons claiming the benefit of the act of 11th February, 1847, I have to recommend the adoption, by you, of a rule, in addition to those already adopted, requiring that the witnesses should answer the following questions:

Were you acquainted with A B?

Where, when, and how long did you know him?

In what town, county, State, or country?

What was his age, his complexion, and the color of his hair and eyes?

What was his trade or occupation?

With whom was he living?

Did you know his parents, or either of them?

Where did they reside? In whose house? And in what town, county, and State, or country?

Are his parents living or dead? If dead, when and where did they die?

How do you know of their death?

Had he brothers or sisters?

How many, and what were their names?

Are they living or dead? And if dead, when and where did they die, and how do you know of their death?

Was he married or single?

If married, when, where, and by whom?

What was the name of his wife before marriage?

Is she living or dead?

Where did he live when he enlisted or volunteered?

Where has *she* been living since?

Was he of foreign or native birth?

If a foreigner, when, and from what place, did he emigrate? Who came with him? At what port did he land?

It is not expected that any one witness should be able to answer all these questions; but enough should appear *upon the face* of the affidavit to show that the witness is really acquainted with the circumstances and family of the deceased, and to render it *improbable* that the witness is prevaricating.

Answers to these or similar questions should be required in all cases where the identity of the claimant is to be established.

T. EWING, *Secretary*.

COMMISSIONER OF PENSIONS.

Request to Adjutant General's Office for verification of service by the rolls.

PENSION OFFICE, _____, 18—

SIR: I have the honor to enclose you the papers of the undermentioned claimants under the act of 11th February, 1847, setting forth their respective services, and to request that you will be good enough to state, upon the papers, in each case, when and for what term claimant enlisted; when, where, and how discharged—and if discharged for disability before the expiration of enlistment, to certify any evidence your rolls afford, that the disability arose "from wounds received or sickness incurred in the course of the service."

Commissioner of Pensions.

NAMES.	NAMES.

Further notice to claimants, &c., of defective papers.

PENSION OFFICE, _____, 18—

SIR: The evidence in support of the claims for bounty land, under the act of February 11, 1847, of the persons mentioned below, is defective. By comparing the papers, in each case, with the note contained in the number set opposite to the claimant's name, the objections will be discovered, and the necessary directions for supplying the deficiencies in the proof will be found. You will, when the evidence required shall have been prepared for transmission to this office, write on the back of the papers, in each case, the number of the note, and say that the defects are supplied, and refer to the new proof presented, thus: "Papers of A B, which were defective, returned. See note No. —. Evidence now supplied: see paper marked with the claimant's name, and the words 'Additional Proof,' thereto annexed."

Commissioner of Pensions.

NAMES.	NO.	NAMES.	NO.

[39.]

BOUNTY LAND UNDER THE ACT OF SEPTEMBER 28, 1850.

Instructions and forms to be observed by persons applying to the Pension Office for bounty land, under the act of September 28th, 1850, entitled "An act granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States."

PENSION OFFICE, *October, 1850.*

In every application for the benefit of the act aforesaid, whether made by the surviving officer or soldier himself, or by his widow

or minor child or children, a declaration, under oath, must be made as nearly according to the following forms as the nature of the case will admit.

Such declaration, and all affidavits, must be sworn to before some justice of the peace or other officer authorized to administer oaths for general purposes, who must certify the same.

The official character and signature of the magistrate who may administer the oath, must be certified by the clerk of the proper court of record of his county, under the seal of the court. *Such certificate must accompany every case.*

In every instance where the certificate of the certifying officer who authenticates the paper, is not written on the same sheet of paper which contains the affidavit or other papers authenticated, the certificate must be attached thereto by a piece of tape or narrow ribbon, the ends of which must pass under the official seal, so as to prevent any paper from being improperly attached to the certificate.

The third section, in express terms, only provides for the location of a warrant under the law. Thus the right to *locate* not being given to an *assignee*, the Department may well say that no assignments made prior to location will be recognized.

The fourth section declares all sales, &c., going to affect the title to any *land* granted, or to be granted, "prior to the issue," shall be null and void, and expressly declares "that the *land located* shall not be charged with or subject to any debt or claim "incurred prior to the issuing of the patent." It thus appears clear that it was the intention of Congress that the claim of the soldier or his heirs should continue free from every kind of incumbrance until after the *issue of the patent*, and thus relieve the Department from all the evils growing out of conflicting claims under alleged assignments.

The object of the law is to confer the right to the land itself on the warrantee or his heirs. After that purpose is effected, it is of course competent for the grantee to dispose of it as he may think proper.

[Form of a declaration to be made by the surviving officer or soldier for bounty land, under the act of 28th September, 1850.]

STATE OF _____, } ss.
County of _____, }
On this _____ day of _____, in the year one thousand eight hundred and _____, personally appeared before me, a justice of the peace, (or other officer authorized to administer oaths for general purposes,) within the county and State aforesaid, _____, aged _____ years, a resident of _____, in the State of _____, who, being duly sworn according to law, declares that he is the identical _____ who was a _____ in the company* commanded by Captain _____ in the _____ regiment of _____ commanded by _____ in the war with Great Britain declared by the United States on the 18th day of June, 1812, (or other war embraced in said act, describing what war:) that he enlisted (or volunteered, or was drafted) at _____, on or about _____.

* If the claimant was a regimental or staff officer, the declaration must be varied according to the facts of the case.

Application by Minor Children.

If any officer or soldier, who would be entitled to bounty land under said act if living, has died leaving no widow who still survives him, but leaving a child or children under the age of majority at the time of the passage of said act, such minor child or children are entitled to the same quantity of land that the father would be entitled to if living.

In such case the *guardian* of such minor child or children must make a declaration* as nearly corresponding with the foregoing forms as the nature of the case will admit. He must state the time of the father's death; the fact that no widow survives him; and must state the name or names, and age or ages of his surviving minor child or children.

This declaration must be accompanied by *satisfactory proof* of the father's death, that no widow survives him, the ages of the minor children, and his own appointment, by competent authority, as guardian. If there is any *family record* showing the ages of the children, it, or a certified copy of the same, should be forwarded, with the affidavit of some disinterested person, proving the genuineness of the original, and that the copy certified is a true and correct copy of it.

Course of action on claims.

[On the reception of claims for bounty land under the act of 28th September, 1850, (at an average of 500 a day at the commencement,) they are acknowledged by a printed letter addressed to the claimant, or agent, by whom they may have been transmitted, as follows. They are then numbered, date of reception noted, indorsed and registered, and then compared with the rolls, at convenience, and filed away. When they are taken up for examination, if any defect in the evidence be discovered, the case in question is suspended, and the claimant or agent is apprised of it by one of the subjoined notices, as it may suit the case in point; or, if there be any defect more peculiar, a special letter is written in explanation of the difficulty opposing further action until the additional evidence called for be transmitted. When the claims are allowed, they are sent to the warrant clerks, who, as soon as the warrants are made out, send them to to the office of the Secretary of the Interior, to be "*stamped*;" they are then returned to the Commissioner of Pensions to be signed by him. Then the warrants return to the hands of the warrant clerks again, who, without any other notification, transmit them by mail to the claimant or agent in the case; and the office transmits, daily, to the Commissioner of the General Land Office, "*abstracts of these issues*," of fifty on a sheet.—(See form appended.) When the claimant or agent receives his warrant, he transmits it to the register and receiver of a local land office for location. This being done, the register and receiver transmit to the General Land Office, as vouchers, the warrant for *patenting*, with their certificate of its *reception* and *location*, as per form of warrant and certificates hereto appended. A copy of the circular instructions from the Commissioner of the General Land Office to registers and receivers for their government in the location of military bounty land, with four forms relating thereto, are also added as a suitable conclusion to these details.—*Editors*.]

PENSION OFFICE, _____, 185—.

SIR: The claim of (A B, presented by) _____, for bounty land, under the act of September 28, 1850, has been received, and will be attended to as soon as practicable, of which you will be duly informed. It is therefore respectfully requested that every applicant will wait a reasonable time before making application to know what has been done in relation to his or her claim.

[To claimant or agent.]

JAMES E. HEATH,
Commissioner.

fact should be set forth in the declaration; and in such case, other evidence, such as the testimony of persons who knew the parties in the life-time of the husband, and knew them to live together as husband and wife, and to be so reputed, will be admissible.

[In no case, however, will the mere statement of witnesses that the claimant is the widow of the deceased be taken as evidence of the marriage; but the witnesses must state the *facts* and *circumstances* from which they derive their knowledge or opinion that she is the widow of the deceased.

A certificate from the clergyman or magistrate, who solemnized the marriage, is not competent evidence, unless the genuineness of the certificate be proved, and the person who gave it be shown to have been authorized to solemnize the marriage.

* [It would, as we apprehend, have been more satisfactory to have prescribed the form for a guardian, as well as for the soldier and the widow.—*Eds.*]

[Claim suspended because the rolls are silent as to the service claimed, and this circular is sent to the claimant or agent for other evidence.]

(No. 1.)

PENSION OFFICE, ———, 185—.

SIR: The application of _____ for land bounty under act of 28th September, 1850, has been examined and suspended. In that application it is stated that he served _____

The Auditor reports that his name is not found on the rolls, and it is therefore necessary, in the absence of an authentic discharge, that his service be established by the positive testimony of at least two officers or soldiers with whom he served, and whose names may be found on the rolls, or who have obtained warrants for like service. In the latter case the number and amount of each warrant must be given.

J. E. HEATH, *Commissioner*.

[Claim suspended, and this circular sent to the claimant or agent for other evidence, because the service claimed is short by the rolls.]

(No. 2.)

PENSION OFFICE, ———, 185—.

SIR: The application of _____ for bounty land under act of 28th September, 1850, filed by you, has been examined and suspended. He claims service in Captain _____ company of _____ sufficient to entitle him to _____ acres. The Auditor reports that the rolls show that he served _____

_____ a period that would only entitle him to _____ acres. Before a warrant for a greater amount can issue, it is necessary, in the absence of an authentic discharge, that his service be established by the positive testimony of at least two officers or soldiers with whom he served, and whose names may be found on the rolls, or who have obtained warrants for like service. In the latter case the number and amount of each warrant must be given.

J. E. HEATH, *Commissioner*.

[Widow's claim suspended, and this circular sent to claimant or agent, on account of defective evidence.]

(No. 3.)

PENSION OFFICE, ———, 185—.

SIR: The application of _____ widow of _____ for land bounty under the act of 28th September, 1850, has been examined and suspended. Before it can be allowed, a copy of the public or private record of her marriage, must be adduced, with a certificate of its correctness, and of the genuineness of the original. If there is no such record of this event, she must furnish an affidavit to that effect, and adduce the positive testimony of persons certified to be credible and disinterested, fully proving it. If the marriage is proved by the person who solemnized it, his authority to act in the premises must be produced. Parol testimony of the marriage of the parties will not be considered till the absence of record proof of the fact is accounted for. In all cases where the testimony is taken before a magistrate, his official character must be certified by the clerk of the proper court, under seal.

J. E. HEATH, *Commissioner*.

[Claim suspended, and this circular sent to claimant or agent, because his discharge does not accompany his declaration, and its absence not accounted for.]

(No. 4.)

PENSION OFFICE, ———, 185—.

SIR: The regulations of this office require, that in every case of application for land bounty, under the act of September 28, 1850, the original certificate of discharge be presented and filed with the claimant's declaration. If lost or destroyed, or if the claimant never received a written discharge, or if discharged in consequence of disability, or if he was in captivity with the enemy, the facts must be stated, verified, and authenticated, as in the case of the declaration.

The discharge of _____ not having been received, nor its absence satisfactorily accounted for in his declaration, filed by _____, a further examination of his claim is necessarily suspended until the regulations referred to above are complied with.

J. E. HEATH, *Commissioner*.

[Claim suspended, and this circular sent to claimant or agent, for other evidence of service, there being no rolls.]

(No. 5.)

PENSION OFFICE, _____, 185—.

SIR: The application of _____ claiming land bounty under the act of 26th September, 1850, for service in Captain _____ company of _____ has been duly examined. Of that company no rolls can be found on file, and it is therefore necessary, in the absence of an authentic discharge, that his service be established by the positive testimony of at least two officers or soldiers who were in the same service, and whose names may be found on the rolls of some other company for the same period, or who have received land warrants under the act aforesaid. In the latter case the number and amount of each warrant must be stated.

J. E. HEATH, *Commissioner*.

[Bounty Land Warrant under the act of 28th September, 1850.]

UNITED STATES OF AMERICA.

40.

DEPARTMENT OF THE INTERIOR.

40.

Office of the Commissioner of Pensions.

It is hereby certified that, under the act of September 28th, 1850, entitled "An act granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," David Trickry, private in Captain Horton's company, Lieutenant Colonel Smith's regiment, New York militia, war 1812, is entitled to locate forty acres at any land office of the United States, in one body, and in conformity to the legal subdivisions of the public lands, upon any of the public lands subject to entry at private sale.

Given under my hand, and the seal of the Department, this 29th day of March, 1851.
No. 3738. J. E. HEATH, *Commissioner*.

NOTE.—You can locate this certificate at any of the land offices, or it will be located for you by the General Land Office on the return of it, with your request to that effect endorsed thereon, specifying the State and land district in which you wish the location made. If you locate it, fill up and sign the following application:

To the Register of the land office at _____, 18 .

Locate this certificate in the N. E. of S. W. quarter of section 25, in township 86, of range 3 E., of 5 P. M.

DAVID TRICKRY.

Attest, _____, *Register*.

Witness, PETER BALL.

[Certificate of the reception and location of a warrant for bounty land.]

Military Bounty Land Act of 28th September, 1850.

LAND WARRANT No. 3738.

REGISTER AND RECEIVER'S No. 133.

LAND OFFICE, DUBUQUE, June 16, 1850.

We hereby certify that the attached military bounty land warrant, No. 3738, was on this day received at this office, from David Trickry, of Orange county, State of New York.

TH. McKNIGHT, *Register*.

M. MOBLEY, *Receiver*.

I, David Trickry, of Orange county, State of New York, hereby apply to locate, and do locate, the northeast quarter of southwest quarter of section No. 25, in township No. 86 north, of range No. 3 east, in the district of lands subject to sale at the land office at Dubuque, containing 40 acres, in satisfaction of the attached warrant numbered 3738, issued under the act of 28th September, 1850.

Witness my hand this 16th day of June, A. D. 1850.

DAVID TRICKRY,

By WM. T. WYNKOOP, *Attorney*.

Attest:

TH. McKNIGHT, *Register*.

M. MOBLEY, *Receiver*.

LAND OFFICE, DUBUQUE, June 16, 1850.

We hereby certify, that the above location is correct, being in accordance with law and instructions.

M. MOBLEY, *Receiver*.

TH. McKNIGHT, *Register*.

PENSION OFFICE, _____, 185—.

Abstract of _____ warrants issued under the act entitled "An act granting bounty lands, &c., approved 28th September, 1850.

No.	Date.	Name of Warrantee.	Grade.	Captain's Name.	Service.	War.
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J. E. HEATH, *Commissioner of Pensions.*To J. BUTTERFIELD, *Commissioner of the General Land Office.*

[Circular to Registers and Receivers for their government in locating Military Bounty Land, under the act of September 28, 1850.]

GENERAL LAND OFFICE, *March 31, 1851.*

GENTLEMEN : By an act of 28th September, 1850, granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States, the warrantees, or their heirs at law, are authorized to locate the land to which they are entitled, at any land office of the United States, in one body, and in conformity to the legal subdivisions of the public lands, upon any of the public lands in such district subject to private entry on the 3d of March, 1851. It is also provided, that no land warrant issued under the provisions of this act shall be laid upon any land of the United States to which there shall be a pre-emption right, or upon which there shall be an actual settlement and cultivation, except with the consent of such settler, to be satisfactorily proven to the proper land officer.

Further, it is made the duty of the Commissioner of this office, under such regulations as may be prescribed by the Secretary of the Interior, to cause to be located, free of expense, any warrant which the holder may transmit to this office for that purpose, in such State and land district as the holder or warrantee may designate, and upon good farming land, so far as the same can be ascertained from the maps, plats, and field notes of the surveyor, or from any other information in the possession of the local office.

Under this law the warrantees or their heirs-at-law can locate the quantity to which they are entitled, in conformity to the legal subdivisions, including forty acre tracts, on any land which was subject to entry at private sale on the 3d of March, 1851.

They cannot take tracts cornering on each other, nor can they be permitted to select a series of small fractions on a water course, Indian boundary, &c., as the law requires that the location shall be in one body—that is, in a compact form.

When application is made to locate these warrants by the warrantee, the applicant should make oath that he is the person specified in the warrant before the location is permitted.

When such application is made by an attorney of a warrantee, the power of attorney, duly authenticated, must be filed with the application; and when by guardian of the minors, who are warrantees, the letters of guardianship, authenticated by the proper court, must in like manner be filed.

When the warrantee has died after the issuing of the warrant, and before it is located, proof of that fact must be adduced; and if he died intestate, proofs of heirship should be required, which proof must consist of the certificate of a court having probate jurisdiction, issued under the seal of said court, stating the time of the death of the warrantee, and the name of each and every of his heirs at law, designating which of said heirs are minors or *femme coverts*.

Where a will is left, a duly certified copy of it, with letters of probate, must be presented, and in either case full authority should be given by the heirs or devisees, if adults, or by their guardians, if minors, to the proposed location. The same rules will be observed by persons making application to this or your office by letter for locations. In order that the liberal views of Congress in passing this law may be carried out, and every expense to the warrantees be avoided in obtaining the benefit granted by the gratitude of their country for faithful and patriotic service, and at the same time to secure to the hardy and enterprising settlers on the public lands the fruits of their industry and privations, the Secretary of the Interior has directed:

That all settlers on public lands, subject to entry at private sale, be requested by public notice to come forward and file their declaratory statements, within thirty days after making their settlements and improvements, as required by the pre-emption act of the 4th September, 1841, so as to secure their pre-emption rights, and prevent interference by the location of these warrants—

And that all warrants may be located upon the land applied for when subject to private entry without an affidavit as to whether said land is improved, and after having been so located said warrants shall remain in the hands of the land officers at least forty days—

If at the end of that time there is no interference by those locations with pre-emption claims the warrants should be returned to this office for patenting—

You will therefore endorse on each warrant the date when, and the tracts on which application is made to locate it, and make a similar note on the plat and in your tract-book in pencil—

If there is no interference within the time above mentioned you will make those notes in ink, but if there is, you will make a new location of the warrant as hereafter directed.

When warrantees apply to locate the improvements of others they must produce the written assent of the owners of such improvements, and evidence satisfactory to you that such owner is the party thus assenting.

Warrantees can locate their own improvements, and where such warrantees are entitled to pre-emption they can locate their warrants on their own pre-emption rights, after proving up their pre-emptions to the satisfaction of the land officers where the

land has been proclaimed and offered at public sale, prior to the 3d March, 1851.

In such cases where the minimum price is more than \$1 25 per acre, the warrantee can pay up in cash the difference between the cost of the land and the amount covered by the warrant, estimating the warrant at \$1 25 per acre.

When the tracts applied for contain more than the quantity expressed in the warrant the warrantee can pay for the excess at the minimum price under the instructions heretofore issued in relation to Mexican warrants in such cases.

When the tract or tracts applied for, contain a less number of acres than is specified in the warrant, they must be taken in full satisfaction of the warrant.

At the end of each month you will prepare an abstract of all locations which have remained on hand as above directed, according to the accompanying form, and transmit it with the warrants and accompanying papers to this office.

In all cases where application is made to this office to locate these warrants they will be transmitted to you, and you will locate them on good farming land as shown by the descriptive notes, and in every thing conform to the foregoing instructions.

Herewith you will receive the form of a notice, which you will cause to be published once a week for six weeks, in two of the newspapers of most extensive circulation in your district.

Each of these papers will be allowed \$ _____ for this publication for the period mentioned.

When the service is completed they should send their accounts therefor to this office, with the first and last numbers of the paper containing the publication, and they will be paid by an order on the nearest disbursing agent of the Government.

By a clause in the 1st section of the act making appropriations for the support of the Government for the fiscal year ending 30th June, 1852, approved 3d March, 1851, it is enacted, that no warrant for bounty land issued under the act of 28th September, 1850, or by virtue of any other act of Congress, shall be located on any land which had not theretofore been brought into market, and then subject to private entry, so that no land can be located under the Bounty Land Law of 28th September, 1850, or any other law granting bounty land, except that which had been proclaimed and offered for sale prior to the 3d of March, 1851.

J. BUTTERFIELD, *Commissioner*.

Register and Receiver at _____.

Military Bounty Land—Pre-emption Rights.

GENERAL LAND OFFICE, *March 31, 1851.*

In order that the liberal views of Congress, in passing the act of 28th September, 1850, granting bounty land to certain officers and soldiers who have been engaged in the military service of

the United States, may be carried out, and every expense to the warrantees be avoided as far as possible in obtaining the benefits granted by the gratitude of their country for faithful and patriotic services, and at the same time to secure to the hardy and enterprising settlers on the public lands the fruits of their industry and privations, the Secretary of the Interior has directed :

That public notice be given to all settlers on public lands subject to private entry to come forward and file their declaratory statements within thirty days after making their settlements and improvements as required by the pre-emption act of 4th September, 1841, so as to secure their pre-emption rights, and prevent interference by the location of these warrants.

And that all warrants may be located upon the land applied for if subject to private entry on the 3d March, 1851, without an affidavit as to whether said land is improved or not; and after having been so located, said warrants shall remain in the hands of the land officers at least forty days. If at the end of that time there is no interference by those locations with pre-emption claims, or otherwise, the warrants will be returned to this office for patenting; but if there is such interference a new location will be made.

Warrantees can locate their warrants on their own pre-emption rights where the land was proclaimed and offered at public sale prior to 3d March, 1851, and where the minimum price of the land is more than one dollar and twenty-five cents per acre, can pay in cash the difference between the cost of the land and the amount covered by the warrant, estimating the warrant at \$1 25 per acre. No pre-emption rights attach to the alternate sections reserved to the United States along the routes of railroads or canals.

Where application is made to this office by the warrantee to locate the warrant, the applicant should designate the land district, section of country, or particular tract on which he wishes the location made, and where the tract is specified it would be well to designate several others in the order in which they are desired, that in case the tract first selected shall have been taken, the warrant can be located upon the first of the others which may be vacant, without further delay. In these cases the affidavit of the applicant, taken before an officer competent to administer oaths, that he is the identical person mentioned in the warrant, must accompany the application. The same rules must be complied with where application by letter is made to the district land officers. Where such application is made by the attorney, guardian, executor, &c., the evidence duly certified of their authority to act must also accompany the application.

By a clause in 1st section of the act making appropriations for the support of the Government for the fiscal year ending 30th June, 1852, approved 3d March, 1851, it is enacted that no warrant for bounty land issued under the act of 28th September, 1850, or by virtue of any other act of Congress, shall be located on any

land which had not theretofore been brought into market and then subject to private entry, so that no land can be located under the Bounty Land Law of 28th September, 1850, or any other law granting bounty land, except that which had been proclaimed and offered for sale prior to the 3d of March, 1851.

J. BUTTERFIELD, *Commissioner*.

—
GENERAL LAND OFFICE, *April 4, 1851.*

Numerous applications having been made to this office for information in relation to the manner in which land warrants under the act of 28th of September, 1850, should be located, the following answers thereto have been prepared, to wit:

There are three modes by which these locations may be made:

- 1st. By the Warrantee in person;
- 2d. By the Warrantee through the agency of this office;
- 3d. By an Agent or Attorney.

If the first or second mode is adopted, the application must be made in writing, specifying the tract, land district, or section of country in which the location is desired, and be accompanied by an affidavit according to the following form, *No. 1.*

Where the third mode is adopted, a power of attorney must be produced, executed by the warrantee in the presence of a witness, according to the following form, *No. 2*, which power of attorney must be acknowledged, or proved as the case may be, before some officer authorized to take the acknowledgment of deeds, according to form *No. 3 or 4.*

In all cases the patents will be transmitted to the land office where the location is made, unless special directions to the contrary be given.

J. BUTTERFIELD, *Commissioner*.

—
FORM No. 1.

STATE OF

County of

Before me (a justice of the peace, or other officer authorized to take affidavits) personally appeared (here insert the name of the warrantee) who, being duly sworn, deposes and says, that he is the identical (here insert the name of the warrantee) to whom warrant No. , for acres under the act of September, 1850, was issued on the day of , 185 , and who now applies to locate the same.

Sworn to, and subscribed before me, this

day of

(Affiant's signature.)

185 .

(Officer's signature.)

—
FORM No. 2.

STATE OF

County of

Know all men by these presents, that I, (here insert the name of the warrantee) of the county of , of , and State of , do hereby constitute and appoint , my true and lawful attorney, for me, and in my name, to locate land warrant No. , for acres of land, which issued under the act of September, 1850.

[Power of substitution may be inserted, if desired.]

(Warrantee's signature.)

Signed in presence of, _____, J. P.

FORM No. 3.

STATE OF
County of

On this day of , in the year , personally appeared (*here insert the name of the warrantee.*) and acknowledged the within power of attorney to be his act and deed, and I certify that I well know the said (*here insert the name of the warrantee.*) and that he is the same person who is described in the within power, and who executed the same.

(Officer's signature.)

FORM No. 4.

STATE OF
County of

I hereby certify, that on this day of , in the year , personally came before me (*here insert the name of the witness*) and (*here insert the name of the warrantee;*) and the said (*here insert the name of the witness.*) being well known to me, was duly sworn by me, and on his oath declared and said, that he well knew the said (*here insert the name of the warrantee.*) and that he was the same person described in, and who executed, the within power of attorney, and his testimony was to me satisfactory evidence of the fact, and the said (*here insert the name of the warrantee.*) thereupon acknowledged the said power to be his act and deed.

(Officer's signature.)

[Caveat required to be presented to the General Land Office by a warrantee, under the act of 28th September, 1850, in the case of a lost warrant which had been sent him by mail: and is equally applicable to any other official evidence of title to bounty land under any other act, lost in any manner.]

PENSION OFFICE, *May 28, 1851.*

In all applications for the reissue of land bounty warrants granted under the act of September 28th, 1850, in lieu of the originals which may have been lost or destroyed, the following regulations, approved by the Department of the Interior, will be observed:

When a warrant has failed to reach the hands of the party entitled to receive it, and to whom it was sent, or has been lost after being received, the party should at once enter a caveat in the General Land Office, to prevent the issuing of a patent to a fraudulent claimant, and should give public notice of the facts in the case at least once a week for six successive weeks in some newspaper of general circulation at or nearest the place to which the warrant was directed, or where the loss occurred. In such publication the intention shall also be expressed to apply to the Commissioner of Pensions for a duplicate of such warrant, which, of course, should be minutely described, in order to guard against the improper use of the one first issued.

The identity of the applicant must be satisfactorily established, and the facts upon which the application for the reissue is based must be fully and clearly set forth under oath, the warrantee stating in his affidavit (if such be the fact) that he has never himself located, nor empowered any person to locate for him, the warrant in question.

In cases where the claim for a duplicate is founded upon the non-reception of the original, the agent, if there be one, is required to unite with the warrantee in the application for renewal.

It is requisite that the credibility of each and every affiant be duly certified by the magistrate administering the oath, and that his official character and signature be verified by the proper officer under his seal of office.

J. E. HEATH,
Commissioner of Pensions.

[40.]

CIRCULARS.

THESE CIRCULARS CONTAIN GENERAL REGULATIONS AND INSTRUCTIONS FOR THE INFORMATION OF CLAIMANTS AND AGENTS FOR PENSIONS AND BOUNTY LANDS.

Numerous attempted frauds call for new arrangements of the books and papers of the office. 2. Care required in preparing claims, and observing a proper distinction between those for pensions and bounty lands, and in designating the different branches of the service, and the different wars in which the service was rendered.

PENSION OFFICE, *December, 1848.*

SIR: In consequence of the numerous attempts to defraud this Department by forged papers, it has been found to be indispensably necessary, in order to guard against these nefarious efforts, to make an entire new arrangement of the land books and papers of this office. To complete this arrangement, several weeks will be consumed; and during this period we shall not be able to issue land warrants, except in a very few cases. As soon as practicable, we shall resume the examination of land claims, and the claimants may rest assured that their cases will be attended to as soon as the nature of the business will permit.

In every case where an inquiry is made relative to claims sent here by mail, or deposited by persons at the Seat of Government, particular care should be taken to describe the case. The name of the individual who claims must be given; and if a widow, the name of her husband also; the service the officer or soldier performed, whether in the army, navy, or militia, and whether for pension or land; whether during the revolutionary war, the war of 1812, or the Mexican war. If in neither of those wars, the particular period when the service was performed must be mentioned. The name of the person who sent the papers to the Pension Office; the time when they were sent, and from what particular post office, must also be given.

Papers in support of claims to land must invariably be drawn up separately from all other claims. The neglect of claimants and their agents to observe this rule has been productive of great inconvenience and loss of time to the parties interested, as well as to the office. This rule applies with equal force to papers in support of pension claims.

J. L. EDWARDS.

The vast amount of correspondence renders it impracticable to answer it in detail, instead of which, general answers are adopted, and the patience of claimants invoked. 2. Claims are taken up in the order of presentation, and the results made known; and if not satisfactory in certain cases, further proceedings may be obtained. 3. Printed regulations and instructions under various laws granting pensions and bounty lands may be obtained on application.

PENSION OFFICE, *October, 1849.*

SIR: The great and extraordinary exertions which have been made to answer with promptitude all the very numerous letters received here, have been found ineffectual. To reply particularly to every inquiry made to this office would consume the time of more clerks than are now employed in the business; and then the examination of claims would be entirely suspended. No good could possibly result to any of the claimants. Claims are taken up according to the order in which they are received at this Department; and all claimants may rest assured that their papers will be acted on at as early a day as the great and increasing press of business will permit. This circular has been drawn up with a view of quieting the minds of applicants, and in order to satisfy them that we are making every effort in our power to adjust their claims. Our great object has ever been to discharge our duty with the utmost promptitude and fidelity.

If in any instance inquiry be made concerning a claim, and it does not appear that the papers have been received here, the claimant is apprized of the fact by having a copy of this letter sent to him or his agent, with the claimant's name written in the margin.

When an applicant is not satisfied with the decision in his case, and no answer is sent to his request for a reconsideration, he is to understand that the Department adheres to its decision.

No information in regard to military service can in any case be given until the claimant has proceeded according to the mode pointed out by the regulations, which are always sent whenever a wish to that effect is expressed by an applicant.

In every case where the claim has been rejected, the papers will remain on our files, and cannot be withdrawn. If the applicant wishes to renew his claim, he must have new papers prepared.

The printed regulations under the various laws granting pensions and bounty lands are very minute, and contain information on every point connected with the establishment of claims under those laws. They are sent to all who make application for them, and are frequently sent, instead of writing long letters, to persons who seek information here.

J. L. EDWARDS,
Commissioner of Pensions.

Regulations for dispatch of business, prescribed in 1833, affirmed and extended in 1839, and re-affirmed in 1850—requiring claims to be taken up in the order of their presentation, and declaring the *presence of agents* to urge action on claims to be an impediment, besides subjecting claimants to a useless expense. 2. Any papers referred to in elucidation of a claim must be described in writing, and be made a part of the

claimant's declaration. 3. Papers and book not to be examined by claimants or agents without written application, specifying the objects of the search, and to be complied with at the discretion of the office. 4. No claim shall be examined in the presence of agents or persons depositing the same, or of the parties interested; and all explanations must be in writing, as no papers can be deemed complete unless they can be clearly understood without verbal explanation.

DEPARTMENT OF THE INTERIOR, *April 9, 1850.*

SIR: I have examined the following rules for the dispatch of business in the Pension Office, am satisfied with them, and direct that they be observed.

T. EWING.

J. L. EDWARDS, Esq.

WAR DEPARTMENT, *May 7, 1839.*

SIR: It is my earnest desire that the business of your office should be conducted with the utmost dispatch and regularity; and I wish that the rule, which declares the presence of an agent for the claimant at your office unnecessary, should not only be strictly adhered to, but that all such persons who may present themselves at your office, with a view of urging immediate attention to their cases, may be informed of the rule, and furnished with a copy of this letter.

I direct, also, that the following rules may be observed:

1st. Should a claimant, or an agent for a claimant, or any one already pensioned, desire that a reference should be made to the papers of any other claimant or pensioner in your office, with a view of elucidating his or her claim, the papers referred to must be designated in writing, and under oath, and form a part of the claimant's declaration.

2d. No agent will be permitted to examine books or papers in the Pension Office in any case whatever, without first making a written application to the Commissioner of Pensions for that purpose, stating fully the object for which he wishes to make such examination, and what particular facts he expects to obtain. The Commissioner will then determine whether the request can be complied with.

3d. To prevent the examining clerks from being interrupted in the discharge of their duties, no person acting on behalf of claimants or pensioners will be allowed to hold any conversation with such clerks in relation to claims presented by them, and no examination of papers deposited by agents or pensioners shall be made in the presence of persons who deposit the same, or who have any interest in the claim or claims presented.

4th. All explanations in relation to evidence must be in writing; and the evidence in no case can be deemed complete unless it can be clearly understood without a verbal explanation.

J. R. POINSETT.

To the COMMISSIONER OF PENSIONS.

☐ The rule alluded to in the first paragraph of the foregoing letter is contained in a letter from the Secretary of War of September 4, 1833, of which the following is a copy:

DEPARTMENT OF WAR, *September 4, 1833.*

SIR: In the future examination of the pension cases, they will be taken up in the order of presentation, nor will any preference be shown to cases which are urged by agents attending at the seat of Government for that purpose. I consider the attention of such agents useless in itself, and subjecting the applicants to unnecessary expense.

LEW. CASS.

J. L. EDWARDS, Esq.

The subject of the first and second circulars are repeated and more fully treated as to the vast amount of correspondence, and the summary disposition of it: information sought, in some respects not to be communicated; in other respects to be complied with: care must be observed, in preparing claims, to make them in separate documents, for pensions or bounty lands, and clearly designate the service claimed: and inquiries respecting claims transmitted must be made in writing. 2. Various decisions detailed in relation to bounty lands under the act of September 28th, 1850; and the proper course to be pursued in preparing and presenting those claims, pointed out, and recapitulated, according to established forms, &c.

PENSION OFFICE, *January, 1851.*

SIR: In reply to your inquiry, I send this circular to you. If you will read it carefully, you will find that it contains not only an answer to your letter, but other matter which may be of importance to you in the transaction of business with this office. It has been found wholly impracticable to prepare written answers to the numerous letters addressed to this office within a few months past. This paper has therefore been drawn up with great care to facilitate the business of the office, and to relieve from anxiety the many persons who desire information relative to pensions and bounty lands.

All claims are taken up in the order in which they are received here. Reports, in writing, are made to the persons who transmit or present the papers. But as claimants are often uneasy, if their claims are not immediately attended to, it very frequently happens that in a short time after the papers are sent to the Department, letters are sent to urge immediate attention. This course, so far from expediting an investigation, retard sit, because it increases the labors of those who are employed here, and, in numerous instances, occasions mistakes, and consequently dissatisfaction to the parties concerned. It is, therefore, respectfully requested that every applicant will wait a reasonable time before making application to know what has been done in relation to his or her claim. But should any reason exist for supposing that unnecessary delay has taken place, or that the papers have been lost or destroyed, and the claimant, or the attorney employed, should deem it proper to ask information, this letter will be sent with a brief answer written on the margin.

The rules of this Department forbid my giving such information respecting military service as is frequently sought. If, in any case, however, information is asked as to the service of a particular individual, for the purpose of substantiating a claim not to be presented to the executive offices at the seat of Government, and the regiment, company, and line to which the claimant belonged, be clearly set forth, as well as the rank which he held, the necessary proof will be furnished, if within the reach of the Department, and not incompatible with the regulations. In some cases, applicants for pensions before transmitting their papers, ask for information in order to assist them in preparing their claims. In such cases information is generally withheld, for very obvious reasons. But there may be a few cases in which information may be afforded to claimants before they make an effort to perfect their claims. Some persons may be so situated that they may find it impracticable to procure the testimony of any living witness, and may resort to the Department for information. If such persons should seek information, they must make a declaration under oath, and so describe the service performed, as to enable the Department to effect the necessary search of the rolls, books, or records of this office, when all proper aid will be afforded them in bringing their claims to a due investigation, and they will be informed whether or not the office contains such proof as will tend to establish their claims; but the answer conveying such information will not specify the service which the rolls may contain.

Suppositious cases are very often stated to this office, and information asked as to the construction of certain acts, when no benefit whatever can be derived to any one from answers to such inquiries. To put a stop to such unnecessary correspondence, it is sufficient to say, that it is out of our power to bestow time in answering inquiries of this nature. But where an individual has a claim of a doubtful character, and first wishes information for his guidance, before subjecting himself to the expense of taking evidence, if the individual be named, and all the facts connected with the case be clearly set forth, the party will be informed as to the course most advisable to pursue. If we think that the case is provided for, we send forms and rules of evidence. If the case is not provided for, we send this letter with an answer to that effect on the margin.

Much solicitude is often manifested by pensioners when they remove from the limits of one agency to those of another, and apply to have a change in the place of payment. On their making proper application, according to the prescribed rules, steps are taken to make the necessary arrangements for a transfer. It cannot, however, be immediately effected, because we have to wait, in most cases, till we can hear from distant agents, from whom information is derived as to the time to which the pensioner was last paid.

In every case where an inquiry is made relative to claims

sent here by mail, or deposited by persons at the seat of Government, particular care should be taken to describe the case. The name of the individual who claims must be given; and, if a widow, the name of her husband also; the service the officer or soldier performed—whether in the army, navy, or militia, and whether for pension or land—whether during the revolutionary war, the war of 1812, or the Mexican war, as also the regiment and company to which the officer or soldier belonged. This is indispensably necessary in all cases, in order to enable us to lay our hands on particular cases inquired for. If in neither of those wars, the particular period when the service was performed must be mentioned. The name of the person who sent the papers to the Pension Office, the time when they were sent, and from what particular post office, must also be given.

Papers in support of claims to land must invariably be drawn up separately from all other claims, and each set of papers must be complete in itself. The neglect of claimants and their agents to observe this rule has been productive of great inconvenience and loss of time to the parties interested, as well as to the office. This rule applies with equal force to papers in support of pension claims.

Persons frequently transmit papers to this office without any letter showing by whom they are sent. All such papers will hereafter be placed on our files, and there remain until the necessary inquiries be made by the parties concerned. This rule is found to be necessary to prevent frauds as well as mistakes. All correspondents are requested to be particular in writing their names legibly, and to give the name of the post office or post town to which they wish answers to be addressed.

In answer to various inquiries relative to the Bounty Land Act of September 28, 1850, I have to inform you: 1. That where the service has been rendered by a substitute, he is the person entitled to the benefit of the law, and not his employer. 2. That the widow of a soldier who has rendered the service required by the law, is entitled to bounty land, provided she was a widow at the passage of the law, although she may have been married several times; or although her marriage to the officer or soldier may have taken place after he left the service; but if not a widow when the law passed, the benefit of the act inures to the minor children of the deceased soldier. 3. That no person who has received, or is entitled to bounty land under a prior law, is entitled to the benefit of the act of 28th September, 1850. 4. That no soldier is entitled to more than one warrant under this act, although he may have served several terms; but where a soldier has served several terms, he will receive a warrant for the greatest quantity of land to which the several terms consolidated, will entitle him. 5. In all cases where any portion of the marine corps in the several wars referred to, in the act of the 28th September, 1850, were embodied with the army in the field, and performed service as a portion of the line of the army, the marines

who so served, if they served the time required by law, and were honorably discharged, are entitled to land. No seaman, nor any other person belonging to the navy proper, is entitled to land. And no teamster or artificer is entitled to land. Persons who were engaged in the removal of the Cherokees from Georgia, in 1836, or in removing Indians at any time, are not entitled to land.

Every one who has any claim for land under the act of September 28, 1850, must first make a declaration before any examination of rolls can be made. The printed forms will direct every claimant how to proceed. The applicant must make the affidavit according to the best of his or her recollection or belief. Clerks cannot prepare from the rolls, any certificates of service before the declaration is filed; nor can answers be given to letters merely asking for information as to service. In no case can a muster roll be sent from the Department. If the soldier's discharge is lost, or if he had none, the fact must be stated under oath. No one is considered in service unless he left his home under a requisition of the Government, and served in field or garrison.

When an oath is administered by a notary public no certificate from the clerk of a court, as to his official character and signature, is necessary, provided he will affix the notarial seal, and that seal has a device or inscription, which will distinguish it from any other seal.

If a soldier who was in the service at any time between 1790 and 1812, and has no discharge, he must prove his service by credible witnesses, when he applies for land.

All inquiries as to the location of a land warrant, must be addressed to the Commissioner of the General Land Office, Washington City.

This office has no control over a warrant after it has been issued according to law. If the warrantee then dies, it must be disposed of according to the laws of the State in which the warrantee resided.

This Department does not appoint any one to act as an agent or attorney, either in preparing or presenting papers in support of claims against the Government.

JAMES E. HEATH,
Commissioner of Pensions.

A power of attorney, legally executed, is essential to authorize an agent to request an inspection of a claim assumed to be placed under his charge. 2. And the granting of such request, or the furnishing an abstract of the papers, will be at the discretion of the Commissioner. 3. Only two re-examinations of claims that have been adjudicated, can be permitted, without the production of additional evidence. 4. Cases finally adjudicated, cannot be re-opened, except on proof of error, and the production of additional evidence. 5. Appeals are admissible within six months. 6. And no application for a re-hearing will be entertained after the lapse of two years.

PENSION OFFICE, April 18, 1851.

The following rules and regulations, approved by the Secretary

of the Interior, will be observed in the settlement of pension claims against the Government :

1. An agent or attorney asking to examine papers filed in any pension claim, or for the reconsideration of a claim heretofore adjudicated, must produce a power of attorney giving him the necessary authority to act as agent of the claim, which power of attorney must be acknowledged before a justice of the peace or other person qualified to take acknowledgments or administer oaths, and must be certified under a recognised official seal. The party moreover executing such power must have taken an oath that he or she is directly interested as one of the claimants, and a certificate to that effect must accompany the power.

2. On the presentation of such authority, the Commissioner will, in his discretion, furnish an abstract of the proofs appearing in the papers filed, or permit a personal inspection of such papers.

3. Upon the presentation of the power, as required in the first rule, if it appear that the original party performing the alleged service, or his widow, is the applicant for the reconsideration of a claim heretofore adjudicated, such claim may be re-examined as a matter of right, but there shall not be more than two re-examinations without the production of further material evidence.

4. In other cases than those of the person performing service, or his widow, as prescribed in the 3d rule next preceding, no pension case which has been finally adjudicated shall be reopened, unless on the production of satisfactory proof that the adjudication was erroneous, accompanied by an affidavit of the party applying therefor, showing that such proof has been discovered since the adjudication was made.

5. Appeals may be taken from the decisions of the Commissioner of Pensions within six months from the time the decision is made and communicated to the party or his agent.

6. No application for a rehearing will be entertained after the expiration of two years from the final adjudication of a claim and notice thereof to the applicant or his agent. After that time the party will be left to seek redress by an appeal to Congress.

J. E. HEATH,
Commissioner of Pensions.

Appeals from the Commissioner of Pensions to the Secretary of the Interior, must be made in writing, stating the grounds of appeal—whether on error of construction of law, or of evidence; and on those grounds only will the appeal be entertained.

DEPARTMENT OF THE INTERIOR, *February 6, 1852.*

Whereas, serious difficulties and delays have arisen in the transaction of the business of the Pension Office, from the multiplicity of indiscriminate and vague appeals from its decisions, without stating the particular grounds of dissent from such decisions: Therefore, in order to facilitate the business of the office, and ensure a speedy determination of all cases therein, it has been deemed proper to adopt the following regulation:

Any person desiring to take an appeal from a decision of the Pension Office, shall address the application to the Secretary of the Interior, and will be required to state the precise grounds on which the appeal is based ; whether the errors alleged be in the construction of the law, or in that of the evidence ; and if in regard to the evidence, the portion relied on must be specially cited. The Commissioner in his report, and the Secretary in his decision, will notice only the grounds so stated, or the points so made.

ALEX. H. H. STUART, *Secretary.*

SUPPLEMENT.

[Some few acts on Pensions and Bounty Lands, and Opinions of Attorneys General, having been overlooked in the first instance, in consequence of defective indexing of the laws and opinions, and other unavoidable circumstances, are now, after the most careful revision, inserted in the following Supplement ; and the subjects of them will be found appropriately referred to in the Alphabetical Index at the end of the volume.]

SUPPLEMENT

OF

LAWS, OPINIONS, AND FORMS, &c.

PENSION AND BOUNTY LAND LAWS.

[1.]

[*Laws of the U. S., vol. 4, page 405.*]

CHAP. 376. An act in addition to the act entitled "An act to raise an additional military force," passed January the eleventh, one thousand eight hundred and twelve.

1. The President of the United States empowered to cause to be enlisted, for the term of eighteen months, unless, &c., such part of the light dragoons, artillery, &c., authorized by the act mentioned: *Provided*; the whole number to be enlisted for eighteen months not to exceed fifteen thousand, &c. 2. The non-commissioned officers, privates, &c. to be entitled to the bounty of sixteen dollars, &c. except the bounty in land, &c.

APPROVED, APRIL 8, 1812.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he hereby is, empowered to cause to be enlisted, for the term of eighteen months, unless sooner discharged, such part of the light dragoons, artillery, and infantry, authorized by the act entitled "An act to raise an additional military force," as he may deem expedient: *Provided*, The whole number, so to be enlisted for eighteen months, shall not exceed fifteen thousand, anything in the said recited act to the contrary notwithstanding.

Sec. 2. *And be it further enacted*, That the non-commissioned officers, musicians, and privates, so to be enlisted, shall be entitled to the bounty of sixteen dollars, and the same pay, clothing, and rations, the same provisions for wounds or disabilities, and to all other allowances, (the bounty in land excepted,) provided by the said before recited act, for the non-commissioned officers, musicians, and privates, who may be raised under the same, and shall be held to perform the same duties, and be subject to the same rules and regulations.

[2.]

[*Laws of the U. S., vol. 4, page 647.*]

CHAP. 604. An act to authorize the President to receive into service certain volunteer corps.

1. The President authorized to receive into service such proportion of the volunteers authorized and accepted, &c. as may be required, &c.: *Provided*; the volunteers received, to engage to serve five years, or, &c. 2. The volunteers, to be taken into service, enti-

ted to the same bounty, pay, &c. as the regular troops. 3. The officers of volunteer corps to rank according to grade, with other officers, &c.

APPROVED, FEBRUARY 24, 1814.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States be, and he is hereby, authorized to receive into the service of the United States such proportion of the volunteers, authorized by the act of sixth February, one thousand eight hundred and twelve, and the act supplementary thereto, of the sixth July, one thousand eight hundred and twelve, and accepted under the authority of said acts, as, in his judgment, the public service may require: *Provided*, That the volunteers so received shall engage to serve for five years, or during the war, unless sooner discharged.

SEC. 2. *And be it further enacted*, That the volunteers which shall be taken into service under the authority of the preceding section, shall be entitled to the same bounty, pay, rations, clothing, forage, and emoluments of every kind, and to the same benefits and allowances, as the regular troops of the United States.

SEC. 3. *And be it further enacted*, That the officers of corps of volunteers which shall be taken into service, shall rank, according to grade and the dates of their commissions or appointments, with other officers of the army.

[3.]

[*Laws of the U. S., vol. 4, page 690.*]

CHAP. 653. An act granting pensions to the officers and seamen serving on board the revenue cutters in certain cases.

Officers and seamen of the revenue cutters, wounded or disabled whilst cooperating with the navy, &c. entitled to be placed on the navy pension list, &c.

APPROVED, APRIL 18, 1814.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the officers and seamen of the revenue cutters of the United States shall be entitled to be placed on the navy pension list, at the same rate of pension, and under the same regulations and restrictions, as are now provided by law for the officers and seamen of the navy.

[4.]

[*Laws of the U. S., Statutes at Large, vol. 3, page 146.*]

CHAP. 10. An act making further provision for filling the ranks of the army of the United States.

1. Recruits authorized, of able-bodied men between the ages of eighteen and fifty.
4. Land bounty changed to 320 acres, to be given to recruits upon their discharge.
- 5.

Persons furnishing recruits for the war shall be exempt from military duty, and such recruits shall be entitled to the bounty in land.

APPROVED, DECEMBER 10, 1814.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passing of this act, each and every commissioned officer who shall be employed in the recruiting service shall be, and he hereby is, authorized to enlist into the army of the United States, any free effective able-bodied man, between the ages of eighteen and fifty years; which enlistment shall be absolute and binding upon all persons under the age of twenty-one years, as well as upon persons of full age, such recruiting officer having complied with all the requisitions of the laws regulating the recruiting service. * * *

SEC. 4. *And be it further enacted,* That in lieu of the bounty of one hundred and sixty acres of land, now allowed by law, there shall be allowed to each non-commissioned officer and soldier hereafter enlisted, when discharged from service, who shall have obtained from the commanding officer of his company, battalion, or regiment, a certificate that he had faithfully performed his duty whilst in service, three hundred and twenty acres of land, to be surveyed, laid off, and granted under the same regulations, and in every respect in the same manner now prescribed by law; and the widow and children, and if there be no widow nor child, the parents of every non-commissioned officer and soldier, enlisted according to law, who may be killed or die in the service of the United States, shall be entitled to receive the three hundred and twenty acres of land as aforesaid; but the same shall not pass to collateral relations, any law heretofore passed to the contrary notwithstanding.

SEC. 5. *And be it further enacted,* That any person subject to militia duty, who shall, according to law, furnish a recruit for the army of the United States at his own expense, during the war, shall thereafter be exempt from militia duty during the war; and every recruit thus furnished shall be delivered to some recruiting officer of the United States, who shall immediately grant his receipt for such recruit, to the person furnishing him, and shall forthwith report the same to the Department of War, and shall specify in the report the name of such person, and his place of residence, as well as the name and description of the recruit; whereupon it shall be the duty of the Secretary for the Department of War to grant to the person furnishing such recruit a certificate of exemption from militia duty during the war, upon calls made upon authority of the United States, which certificate shall be good and available to all intents and purposes for that object; and every recruit thus furnished shall be entitled to the bounty land, in the same manner, and upon the same conditions as the other recruits in the army of the United States.

[5.]

[*Laws of the U. S., vol. 6, page 19.*]

CHAP. 25. An act granting bounties in land and extra pay to certain Canadian volunteers.

1. Citizens of the United States anterior to the war of 1812, residing in Canada at its commencement, and having joined the armies of the United States during its continuance, entitled to bounty land: Quantity to each person: Claims may be located in quarter sections, on unappropriated lands in the Indiana Territory, which have been surveyed, except salt springs, &c.: Manner of location, &c. as the President shall prescribe. 2. Secretary of War, according to rules of evidence to be prescribed by the President, to issue warrants for the land. 3. Three months' additional pay to Canadian volunteers, according to rank.

APPROVED, MARCH 5, 1816.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all such persons as had been citizens of the United States anterior to the late war, and were, at its commencement, inhabitants of the province of Canada, and who, during the said war, joined the armies of the United States as volunteers, and were slain, died in service, or continued therein till honorably discharged, shall be entitled to the following quantities of land, respectively, to wit: Each colonel, nine hundred and sixty acres; each major, to eight hundred acres; each captain, six hundred and forty acres; each subaltern officer, to four hundred and eighty acres; each non-commissioned officer, musician, or private, to three hundred and twenty acres; and the bounties aforesaid shall extend to the medical and other staff, who shall rank according to their pay. And it shall be lawful for the said persons to locate their claims in quarter sections, upon any of the unappropriated lands of the United States, within the Indiana Territory, which shall have been surveyed prior to such location, with the exception of salt springs and lead mines therein, and of the quantities of land adjacent thereto which may be reserved for the use of the same by the President of the United States, and the section number sixteen, in every township, to be granted to the inhabitants of such township for the use of public schools; which locations shall be subject to such regulations, as to priority of choice and the manner of location, as the President of the United States shall prescribe.

SEC. 2. *And be it further enacted,* That the Secretary for the Department of War, for the time being, shall, from time to time, under such rules and regulations, as to evidence, as the President of the United States shall prescribe, issue to every person coming within the description aforesaid, a warrant for such quantity of land as he may be entitled to by virtue of the aforesaid provision; and in case of the death of such person, then such warrant shall be issued to his widow, or if no widow, to his child or children.

SEC. 3. *And be it further enacted,* That the Treasurer of the United States be, and he is hereby, authorized and required, to

pay to each of the persons aforesaid, three months' additional pay, according to the rank they respectively held in the army of the United States during the late war.

[6.]

[*Laws of the United States, vol. 6, page 240.*]

CHAP. 279. An act to amend the act entitled "An act granting bounties in land and extra pay to certain Canadian volunteers," passed the fifth of March, one thousand eight hundred and sixteen.

1. Six months' service and name on the muster roll a condition of bounty: *Provido*; where it shall appear the term of service had not been performed in consequence of wounds, &c. 2. Warrants to be located on lands offered at public sale. 3. Rates of bounty to grades specified. 4. Contrary provisions of former act repealed. 5. This and former act in force for a year.

APPROVED, MARCH 3, 1817.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passing of this act, no bounty in land shall be given to any Canadian volunteer, except where it shall appear that the full term of six months' service shall have been performed in some corps in the United States service, and whose name shall appear upon the muster-rolls of such corps: *Provided*, That where it shall appear that the said term of service had not been performed by reason of wounds received in battle, or other disabilities, occasioned by the performance of his duty while in such corps, such claimant shall be considered as having performed the full term of service for which he had engaged.

SEC. 2. *And be it further enacted*, That all warrants issued in pursuance of the act entitled "An act granting bounties in land and extra pay to certain Canadian volunteers," and which have not been located, and those which shall be issued in pursuance of this act, shall be located on such lands as have been offered at public sale according to law, and no other.

SEC. 3. *And be it further enacted*, That, instead of the bounty given in the act hereby amended, the following rates shall be given: For a colonel, four hundred and eighty acres; for a major, four hundred and eighty acres; for a captain, three hundred and twenty acres; for a subaltern, three hundred and twenty acres; to a non-commissioned officer, musician, or private, one hundred and sixty acres; and to the medical and other staff, in proportion to their pay.

SEC. 4. *And be it further enacted*, That all such parts of the act hereby amended, as shall be inconsistent with, or contravene, the provisions of this act, are hereby repealed.

SEC. 5. *And be it further enacted*, That this act, together with the act hereby amended, shall continue and be in force for the term of one year, and no longer.

[7.]

[*Laws of the U. S., vol. 6, page 265.*]

CHAP. 309. An act extending the time for obtaining military land warrants in certain cases.

The second section of the act referred to not to apply to the heirs, &c. of persons killed, &c.: The heirs, &c. of such persons may make application until the first of May, one thousand eight hundred and twenty.

APPROVED, MARCH 27, 1818.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provision of the second section of the act entitled "An act to provide for designating, surveying, and granting the military bounty lands," passed on the sixth day of May, one thousand eight hundred and twelve, which limits the time within which persons entitled to military bounty lands shall make their application for a land warrant, to five years from and after such person shall become entitled thereto, shall not be construed to apply to, affect, or bar any application for a military land warrant, which may be made by the heirs and representatives of a deceased person, who was entitled thereto by services performed in the late war, or application by the heirs and representatives of any non-commissioned officer or soldier killed in action, or who died in the actual service of the United States, and entitled by existing laws to a bounty in lands; but the heirs and representatives of such persons shall be allowed to make their applications therefor at any time before the first day of May, one thousand eight hundred and twenty; any act to the contrary notwithstanding.

[8.]

[*Laws of the U. S., vol. 7, page 232.*]

CHAP. 264. An act extending the term of pensions, granted to persons disabled, and to the widows and orphans of those who have been slain, or who have died, in consequence of wounds or casualties received while in the line of their duty, on board the private armed ships of the United States, during the late war.

Acts of fourth March, one thousand eight hundred and fourteen, and sixteenth April, eighteen hundred and eighteen, extended for the term of five years: *Proviso*; from the proceeds of the privateer pension fund: *Proviso*; no pension to widow after marriage, nor child after sixteen.

APPROVED, APRIL 9, 1824.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the pensions of all persons, who now are in the receipt thereof, under the provisions of the following laws of the United States, or either of them, to wit: an act passed March fourth, one thousand eight hundred and fourteen, entitled "An act giving pensions to the orphans and widows of persons slain in the public or

private armed vessels of the United States," and an act passed April sixteenth, one thousand eight hundred and eighteen, entitled "An act in addition to an act giving pensions to the orphans and widows of persons slain in the public or private armed vessels of the United States," so far as regards persons receiving pensions from the fund arising from captures and salvage made by the private armed vessels of the United States, be, and the same are hereby, continued, under the restrictions and regulations in the said acts contained, for and during the additional term of five years, from and after the period of the expiration of the said pensions, respectively: *Provided, however,* That the said pensions shall alone be paid from the proceeds of the privateer pension fund, so called, and without recourse to the United States for any deficiency, (should such occur,) which may hereafter arise thereon: *And provided further,* That no pension shall be paid to any such widow after her intermarriage, nor to any orphan children of such officer, seamen, or marines, after they shall have attained the age of sixteen years.

[9.]

[*Laws of the U. S., vol. 8, page 48.*]

CHAP. 53. An act for the relief of certain surviving officers and soldiers of the army of the revolution.

3. Certain non-commissioned officers and privates to receive full pay. 4. Payments to be made under the direction of the Secretary of the Treasury: Foreign officers excluded: Pay not liable to legal process. 5. Payments to be made semi-annually.

APPROVED, MAY 15, 1838.*

SEC. 3. *And be it further enacted,* That every surviving non-commissioned officer, musician, or private, in said army, who enlisted therein for and during the war, and continued in service until its termination, and thereby became entitled to receive a reward of eighty dollars, under a resolve of Congress, passed May fifteenth, seventeen hundred and seventy-eight, shall be entitled to receive his full monthly pay in said service, out of any money in the treasury not otherwise appropriated; to begin on the third day of March, one thousand eight hundred and twenty-six, and to continue during his natural life: *Provided,* That no non-commissioned officer, musician, or private, in said army, who is now on the pension list of the United States, shall be entitled to the benefits of this act.

SEC. 4. *And be it further enacted,* That the pay allowed by this act shall, under the direction of the Secretary of the Treasury, be paid to the officer or soldier entitled thereto, or to their authorized attorney, at such places and days as said Secretary may direct; and that no foreign officer shall be entitled to said

*These sections, 3, 4, and 5, are continuations of the sections 1 and 2 of the same act, [96.]—ante.

pay, nor shall any officer or soldier receive the same, until he furnish to said Secretary satisfactory evidence that he is entitled to the same in conformity to the provisions of this act; and pay allowed by this act shall not, in any way, be transferrable or liable to attachment, levy, or seizure, by any legal process whatever, but shall inure wholly to the personal benefit of the officer or soldier entitled to the same by this act.

SEC. 5. *And be it further enacted*, That so much of said pay as accrued by the provisions of this act before the third day of March, eighteen hundred and twenty-eight, shall be paid to the officers and soldiers entitled to the same, as soon as may be, in the manner and under the provisions before mentioned; and the pay which shall accrue after said day shall be paid semi-annually, in like manner, and under the same provisions.

[10.]

[*Laws of the U. S., vol. 9, page 822.*]

CHAP. 1021. An act to increase the present military establishment of the United States, and for other purposes.

1. Increase of army—one company to be added to each of the regiments of artillery, &c. 29. Three months' extra pay given in lieu of the bounty now provided by law for re-enlistment: One hundred and sixty acres of land granted for ten consecutive years' service.

APPROVED, JULY 5, 1838.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there shall be added to each of the four regiments of artillery one company, to be organized in the same manner as authorized by existing laws, with the exceptions hereafter mentioned, &c.

* * * * *

SEC. 29. *And be it further enacted*, That in lieu of the bounty now provided by law for re-enlistment, every able-bodied non-commissioned officer, musician, or private soldier, who may re-enlist into his company or regiment within two months before, or one month after the expiration of his term of service, shall receive three months' extra pay; and also any non-commissioned officer or soldier who shall have served ten consecutive years, and shall obtain from the commanding officer of his company, battalion, or regiment, a certificate that he had faithfully performed his duty whilst in service, shall be allowed one hundred and sixty acres of land, to be designated, surveyed, and laid off at the public expense, in such manner and upon such conditions as may be provided by law, which land shall be patented to the soldier or his heirs, and be not assignable until patented.

[11.]

[*Laws of the U. S., vol. 9, page 905.*]

CHAP. 1053. An act supplementary to an act entitled "An act to increase the present military establishment of the United States, and for other purposes," approved July fifth, eighteen hundred and thirty-eight.

Bounty to soldiers repealed.

APPROVED, JULY 7, 1838.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act to which this is a supplement shall be, and the same is hereby explained, limited, and modified, as follows :*

Eighth. That so much of said act as allows one hundred and sixty acres of land to soldiers who shall have served ten consecutive years be, and the same is hereby, repealed.

[12.]

[*Laws of the U. S., pamphlet edition, page 56.*]

CHAP. 69. An act to provide for satisfying claims for bounty lands for military services in the late war with Great Britain, and for other purposes.

1. Persons to whom bounty land warrants were issued, which now remain unsatisfied, may enter land, &c.: Proviso; warrants to be located within five years. 2. Acts of twenty-seventh January, eighteen hundred and thirty-five, continued for five years: Cases not finally disposed of, within that time, forever barred: Proviso; warrants to be located how: Further proviso; certificates of location not assignable.

APPROVED, JULY 27, 1842.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases of warrants for bounty lands for military service in the war of eighteen hundred and twelve with Great Britain, which remain unsatisfied at the date of this act, it shall be lawful for the person in whose name such warrant shall have issued, his heirs or legal representatives, to enter at the proper land office in any of the States or Territories in which the same may lie, the quantity of the public lands subject to private entry to which said person shall be entitled in virtue of such warrant in quarter sections: Provided, Such warrants shall be located within five years from the date of this act.*

Sec. 2. *And be it further enacted, That the terms prescribed for the issuing warrants by the Secretary of the Department of War, under the act entitled "An act to allow further time to complete the issuing and locating of military land warrants during the late war," and under the act entitled "An act to extend the time of issuing military land warrants to the officers and soldiers of the revolutionary army, both of which acts were approved January twenty-seventh, eighteen hundred and thirty-five, be, and the*

same are hereby, respectively, renewed and continued in force for the term of five years from and after the date of this act; and all cases which shall not, within the time aforesaid, be finally disposed of, shall be thereafter forever barred from the benefits of all claim to bounty land for services performed within the spirit and meaning of said acts: *Provided*, That warrants issued under the provisions of this section may be located as is provided for warrants under the first section of this act: *And provided further*, That the certificate of location obtained under the provisions of this act shall not be assignable, but the patent shall in all cases issue in the name of the person originally entitled to the bounty land, or to his heirs or legal representatives.

[13.]

[*Laws of the U. S., pamphlet edition, page 131.*]

[No. 7.] Joint resolution relating to patents for bounty lands.

Mode of issuing patents to the heirs of persons entitled to bounty lands.

APPROVED, MARCH 3, 1843.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where an officer or soldier of the revolutionary war, or a soldier of the last war, was entitled to bounty land, has died before obtaining a patent for the land, and where application is made by a part only of the heirs of such deceased officer or soldier for such bounty land, it shall be the duty of the proper officers of the War Department to issue the warrant or patent in the name of the heirs of such deceased officer or soldier, without specifying each; and the patent so issued in the name of the heirs, generally, shall inure to the benefit of the whole, in such portions as they are severally entitled to by the laws of descent in the State or Territory where the officer or soldier belonged at the time of his death.

[14.]

[*Laws of the U. S., pamphlet edition, page 115.*]

[No. 1.] A resolution explanatory of "An act making appropriations for the payment of revolutionary and other pensions of the United States for the fiscal year ending the thirtieth of June, one thousand eight hundred and forty-five."

Claims pending at the passage of this resolution not affected by the pension appropriation act.

APPROVED, JANUARY 23, 1845.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act making appropriations for the payment of revolutionary and other pensions of the United States for the fiscal year

ending on the thirtieth of June, one thousand eight hundred and forty-five," shall not be so construed as in any way to affect the claims of those widows whose application for a pension, or an arrear of pension, at the passage of this resolution, shall have been made and filed in the Pension Office, awaiting the decision of the Commissioner of Pensions thereon.

[15.]

[*Laws of the U. S., Statutes at Large, vol. 9, p. 334.*]

[No. 4.] Joint resolution relative to the evidence which shall be considered satisfactory in applications for bounty land.

In applications for bounty land warrants, the honorable discharge of the applicant, predicated on a surgeon's certificate, to be deemed sufficient evidence.

APPROVED, MARCH 24, 1848.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases of application for bounty land warrants under the act approved February eleventh, eighteen hundred and forty-seven, the honorable discharge of the applicant, showing the same was predicated on a surgeon's certificate of disability, shall be considered as satisfactory evidence to the Commissioner of Pensions that the disability was incurred in the course of service.

[16.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 231.*]

CHAP. 44. An act to require the holders of military land warrants to compensate the land officers of the United States for services in relation to the location of those warrants.

Fee for services by registers and receivers to holders of military land warrants: *Provided*, that no fee be charged when the same is located for the benefit of the soldier.

APPROVED, MAY 17, 1848.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the services which may be rendered after the passage of this act by the registers and receivers of the several land offices of the United States in carrying out the provisions of the ninth section of the act of eleventh February, one thousand eight hundred and forty-seven, entitled "An act to raise, for a limited time, an additional military force, and for other purposes," they shall each be entitled to require from the holders of warrants issued under that act, for one hundred and sixty acres, the sum of fifty cents for each; and from the holders of warrants, issued under the same law, for forty acres, the sum of twenty-five cents for each, as full compensation for those services: Provided, That in all cases*

where the warrant is located by, and for the use of, the volunteer or soldier to whom such warrant may have issued, for services rendered under the act aforesaid, no compensation shall be charged, either by the register or receiver, for making such location.

[17.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 232.*]

CHAP. 49. An act explanatory of the act entitled "An act to raise, for a limited time, an additional military force, and for other purposes," approved eleventh February, eighteen hundred and forty seven.

1. Who shall be considered as "relatives," as used in the act of eleventh February, eighteen hundred and forty seven, ch. 8, to raise for a limited time an additional military force, &c. 2. Benefits of said act shall not be forfeited by privates who have been promoted: Provided such promotion has been made subsequent to the organization of the company, &c.

APPROVED, MAY 27, 1848.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the term "relatives," as used in the ninth section of the act entitled "An act to raise, for a limited time, an additional military force, and for other purposes," approved eleventh February, eighteen hundred and forty-seven, shall be considered as extending to the brothers and sisters of those persons whose services, under that act, may have entitled them to the land therein provided; the order or priority of right, however, shall remain as declared in that act; and those failing, the right shall accrue, fourthly, to the brother or sister, or in equal proportions to the brothers and sisters of the deceased, as the case may be.

SEC. 2. *And be it further enacted,* That the benefits of the said act of eleventh February, eighteen hundred and forty-seven, shall not be construed as forfeited by the privates and non-commissioned officers who have been, or may be, promoted to the grade of commissioned officers during their service in Mexico, and who shall have subsequently fulfilled the condition of their engagements: *Provided,* Such promotion shall have been made subsequent to the original organization of the company, corps, or regiment to which such privates and non-commissioned officers may have belonged.

[18.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 239.*]

CHAP. 71. An act making appropriations for the payment of revolutionary and other pensions of the United States for the year ending the thirtieth June, one thousand eight hundred and forty-nine.

1. Revolutionary pensions: Invalid pensions: For widows and orphans: For half-

pay pensions to widows and orphans: Arrearages. 2. Proviso in act of seventh May, eighteen hundred and forty-six, ch. 13, repealed.

APPROVED, JUNE 26, 1848.

Sec. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the payment of pensions for the year ending the thirtieth of June, one thousand eight hundred and forty-nine.

For revolutionary pensions, under the act of the eighteenth of March, one thousand eight hundred and eighteen, in addition to an unexpended balance remaining in the treasury of eighty-three thousand eight hundred and seventy-seven dollars and forty-three cents, fourteen thousand one hundred and twenty-two dollars and fifty-seven cents.

For invalid pensions, under various acts, two hundred and sixty thousand dollars.

For pensions to widows and orphans, under the act of the fourth of July, one thousand eight hundred and thirty-six, in addition to an unexpended balance remaining in the treasury of one hundred and fifty-one thousand one hundred and fifty-six dollars and thirty-six cents, thirty-two thousand eight hundred and forty-three dollars and sixty-four cents.

For pensions to widows, under the act of the second February, eighteen hundred and forty-eight, in addition to the unexpended balance of two hundred and sixty-three thousand seven hundred and twenty-nine dollars and eighty-seven cents remaining in the treasury of a former appropriation for the payment of pensions, under the act of seventeenth June, eighteen hundred and forty-four, one hundred and thirty-six thousand two hundred and seventy dollars and thirteen cents.

For half-pay pensions to widows and orphans, payable through the Third Auditor's office, in addition to an unexpended balance remaining in the treasury of eight thousand seven hundred and ninety dollars and four cents, nine thousand five hundred dollars.

For arrearages prior to the first of July, one thousand eight hundred and fifteen, payable through the offices of the Second and Third Auditors, in addition to an unexpended balance of three thousand two hundred and one dollars and forty-five cents, eight hundred dollars.

Sec. 2. And be it further enacted, That the proviso to the second section of the act entitled "An act making appropriations for the payment of revolutionary and other pensions of the United States for the year ending the thirtieth June, one thousand eight hundred and forty-seven, and for other purposes," approved May seventh, eighteen hundred and forty-six, be, and the same is hereby, repealed.

[19.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 240.*]

CHAP. 74. An act giving further time for satisfying claims for bounty lands, and for other purposes.

Time for satisfying claims for bounty lands extended.

APPROVED, JUNE 26, 1848.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of the second session of the twenty-ninth [twenty-seventh] Congress, chapter sixty-nine, entitled "An act to provide for satisfying claims for bounty lands for military services in the late war with Great Britain, and for other purposes," approved July twenty-seven, eighteen hundred and forty-two, and also the two acts approved January twenty-seventh, eighteen hundred and thirty-five, therein and thereby revived, shall be, and the same are hereby, revived and continued in force for five years, to be computed from and after the passage of this act.*

[20.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 251.*]

CHAP. 111. An act to revive an act authorizing certain soldiers in the late war [with Great Britain] to surrender the bounty lands drawn by them, and to locate others in lieu thereof.

Certain soldiers in the late war with Great Britain may surrender the bounty lands drawn by them in Arkansas, and receive other lands in lieu thereof: *Provided*; limitation of time.

APPROVED, JULY 25, 1848.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall and may be lawful for any soldier in the late war with Great Britain, to whom bounty land has been allotted and patented in the State of Arkansas, which was and is unfit for cultivation, to surrender said patent, and to receive in lieu thereof the same quantity of any of the public land subject to private entry as he may select: Provided, That before receiving such new land, it shall be proved, to the satisfaction of the Commissioner of the General Land Office, that the land so allotted and patented to said soldier is unfit for cultivation, and that said soldier has never disposed of his interest in said land by any sale of his own, and that the same had not been taken or disposed of for his debts due to any individual, and that he shall release all his interest in the same to the United States, in such way as said Commissioner shall prescribe; and such surrender and location shall be made within five years from the passing of this act.*

[21.]

[*Laws of U. S., Statutes at Large, vol. 9, page 275.*]

CHAP. 147. An act for the relief of those pre-emption claimants upon the Miami lands in Indiana, who, by their services in the Mexican war, are entitled to bounty land.

Pre-emption claimants upon the Miami lands in Indiana entitled to bounty lands may apply their warrants in payment: Provided the Government shall not be required to pay the excess, &c.

APPROVED, AUGUST 7, 1848.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That those persons who are entitled to bounty land warrants for one hundred and sixty acres, in virtue of their own services during the present war with Mexico, and who may likewise be entitled to the right of pre-emption upon the Miami lands in Indiana, under the act of the third of August, eighteen hundred and forty-six, shall have the privilege of applying their warrants in payment or part payment for the tract to which they may establish their right of pre-emption; said warrant to be estimated, when received as aforesaid, at the sum of one dollar and twenty-five cents for each acre therein contained: *Provided*, That in no case shall the government be required to refund any excess of the estimated amount of said warrants, over and above the price of the tract claimed to be entered; and should the tract claimed to be entered as aforesaid exceed, at the rate fixed by law, the said sum, then and in such case the balance of the purchase money of said tract shall be paid in cash.

[22.]

[*Laws of the U. S., Statutes at Large, vol. 9, page 332.*]

CHAP. 180. An act in relation to military land warrants.

Location of certain military land warrants authorized.

APPROVED, AUGUST 14, 1848.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any non-commissioned officer, musician, or private, or his widow or heirs, who shall receive and hold in his own right a land warrant, issued by the Government of the United States for military service, may locate the same in on legal subdivision, on any public land subject to private entry, taking said land at the price at which the same is subject to private entry, and reckoning the warrant at one dollar and twenty-five cents per acre for the number of acres therein contained, and paying the balance, if any, in money; but no claim shall exist on the government to pay for any balance on said warrant in money.

[21.]

[*Laws of the United States, vol. 9, page 196.*]

CHAP. 284. An act to extend the time of issuing military land warrants to the officers and soldiers of the revolutionary army.

APPROVED, JANUARY 27, 1835.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time allowed for issuing military land warrants to the officers and soldiers of the revolutionary army shall be extended to the first day of January, eighteen hundred and forty.

OPINIONS OF ATTORNEYS GENERAL.

[1.]

Free negroes enlisted in the public service entitled to bounty land and pensions.

ATTORNEY GENERAL'S OFFICE, *March 27, 1823.*

SIR: Had I been called on, *a priori*, to give a construction to the several acts of Congress which are the subject of Mr. Cutting's letters of the 21st May, 1821, and 30th January, 1823, of Maj. Charles J. Nourse's of the 20th January, 1823, and Mr. J. W. Murray's of 22d December, 1822, I should have had no hesitation in expressing the opinion that it was not the intention of Congress to incorporate negroes and people of color with the army any more than with the militia of the United States. But the acts of Congress under which this body of people of color are understood to have been raised during the late war uses no other terms of description as to the recruits than that they shall be "effective able-bodied men"—[act 24th December, 1811 "for completing the existing military establishment," and act 11th January, 1812, "to raise an additional military force,"] or "free, effective able-bodied men," [act December 10, 1814, "making further provision for filling the ranks of the army of the United States."]. As either of these descriptions was satisfied by the persons of color, in question; as the recruiting officers, who were *quoad hoc* the agents of the United States, recruited these persons on a contract for the pay and bounty stipulated by law; as the officers of government recognize them as a part of the army, by their regular returns of this corps, who received, till the close of the war, the same pay and rations with other troops, were subject to the same military law, and performed the same military services, it seems to me that a practical construction has been given to the law in this particular, from which it is not in the power of the Government justly to depart. I think, therefore, that they ought to receive the promised land bounty.* But with-

*The same conclusion is equally good in the analogous claims to pensions, but has not been practically so considered. See the subjoined copy of the late Commissioner's letter to Mr. Morehead, of Kentucky.—*Eds.*

out some further and more explicit declaration of the purpose of Congress, I would not recommend a repetition of such contracts, on any future occasion, on laws worded like those under consideration—by which I mean not merely the three laws which I have cited, but the whole military system of the United States, militia included. The papers are returned.

The Hon. JOHN C. CALHOUN.

WM. WIRT.

[2.]

1. The practice (by construction of the act of 31st May, 1830) of deducting invalid pension received since 3d March, 1826, condemned. 2. The act of the 21st May, 1830, does not *extend* the benefits of the act of the 15th May, 1828, to invalids on the pension list, who are *excluded* by the 3d section of that act.

ATTORNEY GENERAL'S OFFICE, June 10, 1830.

SIR: I have received your communication of yesterday's date, in which you inform me that, under the act entitled "An act for the relief of certain surviving officers and soldiers of the army of the revolution," it has been the practice of your department to deduct the amount of any and every pension that an officer had received since the 3d March, 1826, from the pay that he was otherwise entitled to receive under the first section of the act. And this act having been amended by an act for that purpose, approved on the 31st May last, you ask my opinion whether the last mentioned act will authorize the repayment of the *Invalid Pension* which may have been so deducted under the act first referred to.

You desire me moreover to state whether, in my opinion, the act of 31st May, 1830, extends the benefits of the act of the 15th May, 1828, to soldiers who, being on the invalid pension list, were excluded by the 3d section of that act?

In answer to your first inquiry, I have to state that the provisions of the act of the 31st May, 1830, are altogether *prospective*. It declares that the act of the 13th May, 1828, "*shall not be construed to embrace invalid pensioners*"—that "the pension of invalid soldiers *shall not be* deducted from the amount receivable by them under the said act." These enactments operate *in futuro*. They prescribe a rule which is to be applied to cases which may occur after their date; but do not relate to the past, or give any authority to reopen accounts which may have been theretofore settled. They require the Department to abstain from making such deductments hereafter, but do not authorize the payment of such as have been made heretofore.

In reply to your second inquiry, I have to remark that the force of the act of the 31st May, 1830, seems to be directed against the

PENSION OFFICE, January 31, 1849.

SIR: With reference to the application presented by you, on behalf of Harry Moran, a colored man, I have the honor to state that there is no law under which his claim can be allowed.

Hon. C. S. MOREHEAD, *Ho. of Reps.*

J. L. EDWARDS.

second section of the act of the 15th May, 1828, which is confined to the "surviving *officers* of the army of the revolution in the continental line entitled to half pay," &c. &c., and does not extend to the non-commissioned officers, musicians, or privates of that army. The first mentioned act, that of the 31st May, 1830, does indeed contain a provision in relation to the pension of "*invalid soldiers*"—but when the nature of that provision is considered, it will be seen to relate only to the persons provided for in the second section of the act of the 15th May, 1828; that is, officers of the army of the revolution entitled to half pay, for none others had pensions which were liable to be deducted from the amount receivable under that act.

If it had been intended to extend the benefit of the act of 15th May, 1828, to soldiers who, being on the invalid pension list, were therefore excluded by the 3d section of that act, it would have been enacted that the proviso of that section shall not be construed to extend to invalid soldiers, whether non-commissioned officers, musicians, or privates, who may be on the pension list; but such invalid soldiers shall, notwithstanding, be entitled to the benefits of the said act.

J. MACPHERSON BERRIEN.

To the SECRETARY OF THE TREASURY.*

[3.]

Regulations for the admission of applicants for pensions on the pension rolls must be complied with.

ATTORNEY GENERAL'S OFFICE, *July 21, 1832.*

SIR: The President has referred to me the application of Major William Gamble, and directed me to send my opinion to the War Department.

The decision at the Pension Office appears to me to be correct. He cannot be placed on the pension list under the act of 1832, without producing the proof required by the regulations of the War Department of June 27, 1832. When this shall be done, Major Gamble may then obtain the pension given by the late law, upon relinquishing the one he now enjoys.

TO THE SECRETARY OF WAR.

R. B. TANEY.

[4.]

Powers of attorney, or assignments of land warrants* and scrip, as of contracts, discussed in their various bearings, and conclusions modified according to facts and circumstances; but may be stopped to satisfy public debt of claimants.

ATTORNEY GENERAL'S OFFICE, *April 23, 1836.*

SIR: In your letter of the 30th ultimo, after alluding to the cir-

*The above opinion, though addressed to the Secretary of the Treasury, has a bearing on the proper execution of invalid pension laws *afterwards* under the direction of the Secretary of War; *now* of the Secretary of the Interior.—[*Encs.*]

cumstances which led to the general employment of attorneys in fact, by persons having claims under the act of the 30th May, 1830, for the relief of certain officers and soldiers of the Virginia line and navy, and of the continental army, during the revolutionary war; and informing me that where, the character of the attorney is unexceptionable, it has been the invariable practice to deliver to him the scrip, when prepared, that he might settle his agency with his principal, leaving it to other tribunals to scrutinize, when necessary, the merits of disputed contracts, you state the following case: "Recently, a case is presented where a first attorney, having established the services of a captain, and proved the identity of his heirs, obtained for them a land warrant, and filed it in the proper office; after which, those heirs executed another power of attorney, and the substitute of that attorney has demanded the scrip prepared in the case, denying the correctness of the practice that has prevailed, and appealing from the decision of the Commissioner of the General Land Office as erroneous." With a view of disposing of this case, and of deciding as to the accuracy of the practice objected to, you request my opinion on the following point: "Whether a contract with heirs, by which an attorney undertakes to establish their right to the bounty of the Government, for a specified portion of what he may get, vests such an interest in the attorney that his authority cannot be abrogated without cause, and as ought to be recognized and enforced here?"

The first section of the act of the 30th May, 1830, treats the land warrants previously granted as assignable; but the proviso to the fourth section enacts "that all certificates or scrip to be issued in virtue of any warrant hereafter to be granted, shall be issued to the party originally entitled thereto, or his heir or heirs, devisee or devisees, as the case may be."

It appears, from the papers in the case on which your question arises, that the land warrants which are now the subject of dispute were all granted to the heirs of Captain Joseph Mitchell, after the 30th of May, 1830. Your question must, therefore, be decided by this law: by its provisions, if they meet the point in controversy; by its spirit, if it be not expressly provided for.

So much, at least, is certain: the scrip to be issued in this case must be made out in the names of the heirs or devisees of Captain Mitchell, the party originally entitled. They are also the persons to whom, or to whose order, it is *prima facie* to be delivered.

But, although it is plain that land warrants granted after the 30th of May, 1830, cannot be assigned in such manner as to pass the legal title to the assignee, and to authorize the making out of the scrip in his name, yet I am of opinion that third persons may, by purchase and by other means, acquire an equitable interest in such warrants, and in the scrip to be issued thereon; in other words, there may be a valid *equitable* assignment of an interest in the subject. The case put in your question is one of this nature. I perceive no legal objection to a contract with heirs, by which

an attorney undertakes to establish their right to the bounty of the Government, for a specified portion of what may be recovered, provided it be fairly made. Agencies of this sort grow out of the very nature and circumstances of these cases; and when fairly made and faithfully executed, they are, no doubt, highly beneficial to the parties intended to be provided for by the act of Congress. In every such instance, the attorney or agent must be regarded as having a *vested equitable interest* in the land warrants, and in the scrip to be issued thereon, which cannot be abrogated by the party with whom he has contracted, and which the appropriate courts of equity will, no doubt, protect and enforce.

To a certain extent, equitable interests of this nature may and ought to be recognized and protected in your department.

Where the existence and extent of such interests are not disputed by the party originally entitled, the scrip, though made out in the name of such party, may be delivered to the equitable assignee. Where the party originally entitled is not before the department, except as represented by persons claiming by equitable assignments from him, I think the department may look into their respective claims, not with a view of adjudicating thereon, (for it has no judicial power in the premises,) but for the purpose of ascertaining whether the claims, or either of them, are of such presumptive validity and fairness as to make it discreet and just to deliver the scrip, or any part thereof, to either or both the contending parties.

Your question, however, looks to an entirely different case: it supposes a contest between the equitable assignee and the party originally entitled, his heirs and devisees; and when you ask whether the interest of the former ought to be recognized and enforced *here*, I understand you as inquiring whether so much of the scrip as may be required to satisfy that interest ought to be delivered to him, notwithstanding the objections of the other party.

This question will be satisfactorily answered by a proper regard to the meaning and effect of the word *issued* in the provisions above quoted. What, then, are we to understand by that word, as used in the statute? Does it merely mean that the certificates or scrip shall be *made out or filled up in the name of* the party originally entitled? and if it be so made out and filled up, may it yet be *delivered*, without his consent, and notwithstanding his remonstrances, to a party claiming under a contract some interest therein? or does it also require its *actual delivery* to the party originally entitled?

The word itself is of equivocal import. In common parlance, and in its legal use, it sometimes means the making out and sending forth of a writ, order, address, or other document, without including the idea of the delivery thereof to any person in particular. At other times, as when we say that a writ was issued to the sheriff, or an order issued by the commanding officer to one of his inferiors, we usually mean, not only that the writ or order was sent forth, but that it actually reached the party to whom it was

directed. The word itself being thus ambiguous, we must recur to the design and spirit of the provision; or, as the old common lawyers technically expressed it, we must look at the old law, the mischief, and the remedy, and give the word such an interpretation as will most effectually suppress the mischief and advance the remedy.

By the old law, as recognised in the first section, these land warrants were assignable; and when an assignment had been made, the certificates or scrip were accordingly to be made out in the name of the assignee, and, as matter of course, were also to be delivered to him.

The mischief of this state of things was, that the party originally entitled was sometimes induced to execute an assignment of his interest, upon an inadequate consideration, or perhaps without any consideration whatever.

The remedy proposed by Congress was to render the title of the party originally entitled inalienable as between the Government and himself, so that the legal title should, at all times, remain in him; leaving all persons who might, under contracts with him or otherwise, have equitable claims thereon, to look to his own honor and good faith, or to the aid of the courts, for the satisfaction of those claims.

It is obvious that if the scrip be delivered to a person claiming as an assignee, or otherwise in hostility to the party originally entitled, the latter will, in some respects, be subjected to the very mischief which the proviso was intended to suppress. The restricted interpretation of the word *issued* is therefore to be avoided; and, for the like reason, we must give to that word the most comprehensive definition of which it is susceptible. In other words, the scrip, if delivered at all, must be delivered to the party originally entitled, his heirs, devisees, or other agent, as contradistinguished from all persons claiming an interest, as assignee or otherwise, by contract with such party.

Whenever, therefore, the party originally entitled, or his representatives, and an attorney or other persons claiming an interest by contract in the warrants, and in the scrip to be issued thereon, are both before the department, and each demands the scrip, I am of opinion that, if it be issued from the department, it must, according to the true spirit and meaning of the act of Congress, be delivered to the former. But I think, also, that in all cases where the department sees that the just claims of other persons will be liable to be defeated by such delivery of the scrip, it may lawfully suspend the actual delivery until the claimant can have time to apply to a court of equity for an injunction. If he make out such a case as to procure an injunction, it will be proper in itself, and conformable to the usages of the department in analogous cases, to retain the scrip until the rights of the parties can be judicially determined, and then to deliver it to such person as the court may direct.

I find, among the papers before me, some allusion to my opin-

ion in the case of Triplett. It is proper to observe, in respect to that opinion, that my attention was not called to the effect of the proviso above considered; nor was any doubt suggested in the case as stated to me, in respect to the power and duty of the department to take notice of the interest of Triplett, under the contract with Rice. It was assumed by the department, that, had not Triplett been indebted to the Government, the scrip for his share must have been delivered to him; and the question referred to me was, whether it could be retained for the Government debt. I held that this could be done, and, on the principles of this opinion, I should still come to the same result. If the proviso applied to the case, still it was obvious that Triplett had an equitable interest in the scrip; and that was enough to justify the United States in withholding the share to which he was equitably entitled, until his debt to them should be fully satisfied.

To the Hon. LEVI WOODBURY,

Secretary of the Treasury.

B. F. BUTLER.

[5.]

Doubtful claims deemed to be proper subjects for reference to Congress in which the views of the Auditor of the Treasury are confirmed.

ATTORNEY GENERAL'S OFFICE, June 18, 1836.

SIR: Pursuant to the request contained in your letter of the 21st ultimo, in which you ask my opinion on the legality of the course pursued by the Auditor in the case of the heirs of Doctor Kennedy, I have the honor to state, that I have examined the report of the Auditor, and the settlement made by him, and have not discovered any violation of the law therein. The act of the 25th May, 1832, "for the relief of the heirs of Doctor Samuel Kennedy," required the accounting officers of the Treasury "to settle and adjust the accounts of the heirs of Doctor Samuel Kennedy, and allow to them seven years' half pay for their father's services as surgeon in the revolutionary war, who died in the service on the twenty-eighth day of June, one thousand seven hundred and seventy-eight, to be paid out of any money in the Treasury not otherwise appropriated." The Secretary of the Treasury, on an appeal to him in June, 1832, reversed the decision of the Auditor, and decided that, according to the true construction of this law, the half pay should be estimated according to the pay Doctor Kennedy was entitled to receive at the time of his death. In accordance with this rule, (which was much more liberal to the heirs than the one proposed by the Auditor,) the latter subsequently stated the accounts and adjusted the balance, which was fully paid, to the amount of \$5,110.

It now appears, from the memorial transmitted to me with the other documents in the case, that, in addition to the *seven years' half pay* already received, the heirs claim an allowance for the *actual services* of Doctor Kennedy, for the whole period of his ser-

vices, (about two years and a half,) according to certain rates of pay stated in the memorial, and amounting in the whole to \$3,120, and also interest thereon at six per cent. from the 28th June, 1778, to the present time. In relation to the additional claims, the Auditor observes, in his report, that the accounting officers "are not competent to make, with propriety, any further allowance, except such as Congress may see fit specially to authorize and direct." I cannot find any sufficient ground for overruling this opinion; and as it is peculiarly fit to refer all doubtful cases of this nature to the legislative authority, my conclusion is, that the decision of the Auditor ought not to be disturbed.

To the SECRETARY OF THE TREASURY.

B. F. BUTLER.

[6.]

Congress having resolved that the claim of the representatives of Churchill Gibbs was provided for by the act of July 5, 1832, and the House of Representatives having again resolved to that effect, after the executive department had decided otherwise, it is now the duty of the executive department to liquidate it.

ATTORNEY GENERAL'S OFFICE, *March 27, 1849.*

SIR: In the case of the representatives of Churchill Gibbs, referred to this office, I am of opinion that, both Houses of Congress having, on the 12th of January, 1848, resolved that the claim was provided for by the act of July 5, 1832, and the House of Representatives having done so again at the last session, after the executive department had, more than once, maintained a different doctrine, I am of opinion that a proper deference to the legislature demands that their construction should be adopted. That a claim should be rejected by the Executive because Congress had not, in its opinion, provided for it, and the claimant be referred to the latter for relief, and, going there, be referred back to the Executive by Congress, because, in their opinion, they had provided for it by the existing laws, and that it should still be disallowed, would, in my opinion, be a reproach upon the justice of the government, which it is not only in the power, but the duty, of the Executive, to prevent. Without deciding, therefore, upon the first of the two questions submitted, I am very clear that, upon the ground included within the second question, the claim should be liquidated.

REVERDY JOHNSON.

Hon. THOMAS EWING, *Secretary of the Interior.*

[7.]

The acts of Congress of 3d March, 1835, and 12th August, 1848, are legislative interpretations of the act of 5th July, 1832, and the expressions of opinions that it was the purpose of the third section of the act of 1832 to provide for Virginia commutation claims for half pay, as well as for those for half pay.

Those legislative interpretations and opinions are binding on the Executive, and require the allowance of the present claim.

ATTORNEY GENERAL'S OFFICE, *March 27, 1849.*

SIR: If the question presented by the case of the representa

tive of John M. Galt, which you have referred to this office, were a new one, and depended alone on the third section of the act of the 5th July, 1832, I should entertain little or no doubt upon it. I should have construed that section as embracing all claims of a like character with those included within the first and second sections, not prosecuted to judgment and paid, or prosecuted to judgment. These consisted, amongst others, of claims for commutation as well as half pay.

It would seem to be singular that Congress should provide for claims sued to judgment, and not intend, although apparently meaning to do so, to cover all such claims as Virginia was responsible for, and could be sued for and made to pay, and should, by the imperfection of the terms adopted, fail to include all. But the question, as far as that act alone is concerned, is not, according to the practice of this office, to be considered an open one. My predecessors entertained a different view of the act, and have more than once so decided. But, although this is the rule of the office, yet when Congress have afterward expressed an opinion in conflict with that of the office, it has been considered as in the nature of a legislative interpretation, which becoming courtesy to the legislative department of the government requires the Executive to observe. In this case I think there is such an interpretation. The doubt under the act of 1832 was, whether commutation claims were provided for by its third section.

When the opinion of Attorney General Taney was given, he does not seem to have had his attention brought to the law of Virginia of the 16th December, 1790, (13 *Henning*, 131,) under which, as I think, her courts decided that the officers referred to in that law were entitled to commutation. The judgments against her for such claims were not, I think, given by way of compromise, but of right, arising under this act of 1790. This opinion, also, was prior to the act of Congress of 3d March, 1835, (it was given 21st March, 1833,) which evidently contemplates commutation claims, and was of course prior to the act of 12th August, 1848, making appropriations for the civil and diplomatic expenses of the Government, by which eighty-one thousand two hundred and seventy-three dollars and seventeen cents were appropriated "for repayment to Virginia of money paid by that State, under judgments of her courts against her, to revolutionary officers and soldiers and their representatives, for half pay and commutation of half pay," &c. These two acts, in my judgment, are to be considered legislative interpretations of the act of 5th July, 1832, and as the expression of an opinion by Congress, with whom the propriety of paying the claims altogether rests, that it was the purpose of the third section of the act of 1832 to provide for commutation of half-pay as well as half-pay. I think this should be, and is, binding on the Executive; and, of course, that the claim in the particular case should be allowed.

Hon. THOMAS EWING,

Secretary of the Interior.

REVERDY JOHNSON.

[8.]

Although the acts prescribing the duties of Attorneys General do not declare the effect of their advice,* it has been the practice of the departments to heed it. It has been found greatly advantageous, if not absolutely necessary, to have uniformity of action upon analogous questions and cases; and that result is more likely to be attained under the guidance of a single department constituted for the purpose, than by a disregard of its opinions and advice. Acts of Congress granting relief in special cases, and referring claims to the Second Auditor, confer upon him a jurisdiction exclusive of any other department; and where one Auditor settles such accounts, his successors are bound by his decisions.

ATTORNEY GENERAL'S OFFICE, *May 8, 1849.*

SIR: In the matter of the claim of the representatives of George Fisher, made under the act for their relief of the 12th of April, 1848, the two questions you have submitted to this office I have duly considered. They are these: First, is the opinion of a former Attorney General upon the decision of the late Second Auditor obligatory upon the present incumbent? and, secondly, ought interest to have been allowed under the act of Congress referred to?

First, the duties of the Attorney General are prescribed by the judiciary act of 1789, and are, "to give his advice and opinion upon questions of law when required by the President of the United States, or when requested by the heads of any of the departments, touching any matters that may concern their departments." The act does not declare what effect shall be given to such advice and opinion, but it is believed that the practice of the government has invariably been to follow it. This has been done from the great advantage and almost absolute necessity of having uniform rules of decision in all questions of law in analogous cases—a result much more certain under the guidance and decision of a single department, constituted for the very purpose of advising upon all questions, and with supposed special qualifications for such a duty. In my opinion this practice should be considered as law.

* By the following it appears Mr. Butler concurred with Mr. Johnson that the opinions of Attorneys General are advisory only; and adds, that they are to be *declined* when sought at the instance of a claimant in a case that has been decided by the Department having jurisdiction; and this authority of the Auditor's is pronounced conclusive by several preceding opinions:

FEBRUARY 12, 1836.

SIR: On the receipt of your letter of the 25th of November last, I gave to the case of George W. Walker, therein stated, a cursory examination; but being much occupied at the time by more pressing calls, and being, moreover, strongly inclined to concur in the views taken by the officers of your department, and confirmed by yourself, and thinking it possible that a more attentive consideration might lead to a different result, I suspended the case for that purpose. Having now resumed the investigation of the subject, and referring more particularly than I had before done to its actual posture, I find myself constrained respectfully to decline giving an official opinion upon it, inasmuch as it appears to have been decided and definitively disposed of by the department on the 12th of November last, after very full consideration, upon grounds then and still believed by it to be indisputable, and to be referred to me solely in compliance with the request of the claimant. I cannot undertake to give an official opinion on the question proposed to me, without assuming that this office possesses a revisory jurisdiction not conferred upon it by law.

To the SECRETARY OF THE TREASURY.

B. F. BUTLER.

By reference to the act giving relief in this case, it will be seen that the whole subject of the claim is submitted to the exclusive judgment of the Second Auditor. No other department has any jurisdiction over it. His judgment was made absolute. By the last report of that officer he did allow interest, and the interest, with the principal then allowed, has been paid the claimants. This, in my judgment, decides the question as to the title to interest under the act. The Auditor thought—whether correctly or not, is (and I express no opinion upon it) not submitted to me—that such was the meaning of the law. His successor, under another rule perfectly well settled, has no right to disregard the decision. He is bound to esteem it a correct one. (*The United States vs. Bank of the Metropolis*, 15 Pet., 377.)

Hon. WM. M. MEREDITH.

REVERDY JOHNSON.

Secretary of the Treasury.

DECISIONS OF THE DEPARTMENT.

[1.]

This grants the period of *five years*, as established by courts of equity, at the expiration of which no appeal can be taken against the adjudication of any claim in the Pension Office: occasion by an appeal to the Secretary of the Interior after the lapse of eighteen years, by the heirs of Thomas Murray, *deceased*; from the review of which, by the Secretary, the following is an extract, showing by the documents on file that the *deceased* was not a quartermaster, as alleged by the heirs or their agent, and could not at any time have established the claim set up.

DEPARTMENT OF THE INTERIOR, *March 11, 1852.*

Upon an examination of the case of Thomas Murray, I find that on 2d August, 1833, he was pensioned at the rate of two hundred and fifty-five dollars and eighty-two cents, which he received regularly up to the time of his death, which occurred on the 11th June, 1836. During this time there was no complaint that the allowance was not made in conformity with law, or that the applicant was not pensioned according to his true military rank. In May, 1851, an application is submitted on behalf of the representatives of the deceased pensioner for an increase of the amount of pension, claiming the difference between what he received and what he was entitled to according to his rank of quartermaster.

The proper time to make this question was in 1833, when the pension was allowed. If injustice was done, Mr. Murray, who was then living, must have known it, and he should have sought redress by an appeal. The whole case was presented, and if the decision of the Pension Office was wrong, the means of redress were afforded by an appeal. No appeal, however, was taken, and the pensioner acquiesced in the action of the Commissioner of Pensions. After the lapse of eighteen years the descendants of the pensioner, in substance, ask for an appeal from the decis-

ion in which their ancestor, who was personally ignorant of the justice or injustice of it, acquiesced without a complaint. It is true the application is not in form an appeal from that decision, but it is in substance, and the disguise of making the application in the form of a petition for an increase, and appealing from the refusal to grant it, is too thin to conceal its true character. In all courts of law and equity there are limitations, varying in different States (but in none, I believe, exceeding five years) to the right of appeal from a judgment. By analogy I think this limitation should be adopted in the Pension Office, and in no instance should a case be reviewed after five years, unless upon the discovery of new evidence not accessible to the party by due diligence at an earlier day. Acting on this rule I should unhesitatingly affirm the decision of the Commissioner of Pensions. But if it were a new case, presented for the first time, I should feel constrained to reject it.

It is alleged that the pensioner was a quartermaster. If so, where is the evidence of it? Such appointments were not made verbally. There was some written authority from the superior officer. None such is exhibited. On the contrary, all the documentary evidence in relation to his appointment shows that he was appointed keeper of a depending post. The nature of that appointment appears from the extract of the letter from Major Clairborne, in which he says "*to Mr. Wm. McCrene, Deputy Quartermaster*, your making New London a depending post on account of the artificers and public works that are carried on there, has my approbation. As to the agent you have appointed to influence it," he has no knowledge.

It was rather as a superintendent of artificers than as a military officer, and his pay was not as a military officer at so much per month, but as a civil employee at \$2 per day.

The evidence is fully reviewed in the report from the Pension Office, and I do not deem it necessary to do more than say that I entirely concur in the conclusions of the Commissioner.

In all cases hereafter, where there has been a final adjudication of more than five years standing, I would advise the Commissioner not to disturb it, unless upon the most clear and satisfactory proof of the discovery of new evidence which would justify a court of equity in granting a bill of review. It is better that there should be some cases of hardship to individuals than that litigation should be interminable and the time of the officers of the Government wasted in the re-examination of adjudicated cases.

ALEX. H. H. STUART,

Secretary.

[2.]

Arrears of pensions due to revolutionary [*or any other*] pensioners, [not claims that never have been pensioned,] may be paid to widows or orphans, or their guardians for their benefit, but not to administrators or executors of the deceased pensioner—such arrears not being assets.

DEPARTMENT OF THE INTERIOR, *March 17th, 1852.*

SIR: Upon an examination of the question presented in your report of the 17th October last, in relation to the payment of arrears of pension to "personal representatives" in the cases of Maddox Fisher and John Phillips, I have to inform you that I entirely concur in the views expressed by you in your report, and that therefore your decision in those cases is affirmed, of which you will please advise Mr. V. Ellis, the attorney for the claimants.

ALEXANDER H. H. STUART,

JAMES E. HEATH, Esq.,

Secretary.

Commissioner of Pensions.

[Copy of the report affirmed by the above. The references in brackets will be found in this volume.]

PENSION OFFICE, *October 17, 1851.*

SIR: After some unavoidable delay, I have the honor to return herewith Mr. Ellis's letter of appeal in the cases of Maddox Fisher, deceased, and of John Phillips, deceased—not deeming it necessary to send over the cases themselves, since the applicant correctly states that a point of law alone is involved in them. In both arrears are due, and in both an administrator is the claimant, there being neither widow nor children in existence.

The act of 2d March, 1829, [p. 146, No. 99.] provided that arrears of pension due to any revolutionary pensioner at the time of his death should be first paid to his widow; if no widow, to his children; and if neither widow nor children, then to the legal representatives. This enactment seems to have been rendered necessary by the omission in the acts of 1818 and 1828 to provide for the distribution of such arrears.

The act of June, 1832, which introduces a totally new system of pensions, prescribes also a new rule upon the subject. Arrears under it are made payable to the widow, and if there be no widow, to the children. Had this act merely provided for the payment of a debt already existing, Congress would have no power to interfere with the State laws prescribing the distribution of personal assets; but as pension is the mere creature of that body, it undoubtedly had the right to affix to it any descensible quality it judged expedient, and no authority can be found for admitting to its benefits any class of persons not expressly named. The naming of one set of heirs is an exclusion of all not named. Under this act, therefore, an administrator could never have been recognised by this office as a claimant, until the act of June 19th, 1840, permitted it to be paid to him "for the sole use and benefit of the children, to be distributed among them in equal shares,

and never to be regarded as assets." If there be no children, the purpose for which the administrator is allowed to claim the arrears can never be answered; and the reason ceasing, the law ceases also. Were any other construction adopted, it would involve the absurdity of constituting the administrator the heir of his intestates, to the exclusion of collaterals—for there is no one in existence to whom the law requires the money to be paid by him, and it never can be employed as assets in liquidating the debts of the decedents. This view of the subject is in accordance with that expressed by Attorney General Mason in the case of Paulina Le Grand, [July 14, 1846, p. 436, No. 94;] and though there are some precedents of an opposite character, the opinion of Mr. Mason is sustained by Messrs. Poinsett and Woodbury, Secretaries of War and of the Treasury, [p. 491, No. 35,] and by others of acknowledged ability on pension laws. See also the opinion of Secretary Marcy in the case of Elizabeth Cragie, [p. 510, No. 53.] I am informed that this decision was at first dissented from, but afterwards concurred in by Secretary Ewing.*

J. E. HEATH, *Commissioner*.

Hon. A. H. H. STUART, *Secretary of the Interior*.

FORMS OF DECLARATIONS FOR INVALID PENSIONS.

In compliance with the promise made at page xxiii of the introduction, we insert here, for the use of claimants and agents, three forms of declarations, for *military*, *naval*, and *privateer* pensions, which have been drawn according to the most appropriate analogies, and will, whether embracing every possible particular or not, be found to be better than no guide at all, in the presentation of such claims.

It will readily be conceived that, although these three Declarations, in their blank form, are almost identical with each other, it is the filling up of those blanks which constitute their appropriateness to the particular service they are intended to apply.

For the want of a similar "order" in the War Department to that derived from the Navy Department, inserted at page 584, [No. 26,] ante, concentrating, *in the form of three certificates*, the purport of the following extracts from the "Army Regulations," we could do no better than to give those extracts in full, to subserve the same general purpose here for which that "order"

* Mr. Ewing's opinion, on a similar occasion, seems somewhat to vary this question of the right of the legal representative or administrator, by looking to the common law for a "personal representative" as the claimant entitled. [See p. 519, No. 77, of this work.] But the "personal representative" at common law, (not being the widow or child of the deceased pensioner,) might be liable to the objection that "a pension is not *assessable*," and therefore cannot be claimed by him.—*Eds.*

of the Navy Department was introduced in its place, as above referred to.

Extracts from the "Army Regulations of 1847."

[The following extracts show where the official evidences of "death," "ordinary disabilities," and "disabilities for pensions," in the military service, may be found.]

"Deceased officers."

203. Whenever an officer dies or is killed at any military *fort or station*, or in the *vicinity* of the same, it will be the duty of the commanding officer to report the fact to the Adjutant General, with the date, and any other information proper to be communicated. If an officer die at a *distance* from a military post, any officer having intelligence of the same, will, in like manner, communicate it, specifying the day of his *decease*.

"Deceased soldiers."

206. * * * When a soldier dies at a post or station absent from his company, it will be the duty of his immediate commander to * * * forward to the commanding officer of the company to which the soldier belongs, a report of his death, specifying the date, place, and cause, &c."

"Field returns—Deaths, &c., in battle."

959. Reports relative to battles, or an affair in which loss may be sustained, will always be accompanied by a separate return of the killed, wounded, and missing, in which the name, rank, and regiment of each officer and soldier will be specified, with such remarks and explanations as may be requisite for the records of the Department of War, or be necessary to establish the just claims of any individual who may have been wounded, or of the heirs and representatives of any killed in action, taking care to specify the *nature of the wound*, the *time and place* of its occurrence, the company, regiment, or corps, and the name of the captain, colonel, or other commanding officer.

"Certificate of ordinary disability."

223. Whenever a non-commissioned officer or soldier shall be incapable of performing his duties in consequence of wounds, disease, or infirmity, and recommended to be discharged, the senior surgeon of the hospital, regiment, or post, shall furnish his captain with a *certificate of disability*, pursuant to form 16 of the Medical Regulations, for his approval or remark; which certificate of disability, with the descriptive certificate properly filled up and signed by the captain, will be forwarded by the commanding officer of the post, (with such remarks as he may deem requisite,) to the Adjutant General, for final decision at headquarters.

224. If the recommendation for the discharge of the invalid be approved, the authority therefor will be endorsed on the "certificate of disability," which will be sent back to be completed and signed by the commanding officer, who will return the same to the Adjutant General's office.

"Certificate for pension."

225. When a non-commissioned officer or soldier shall be recommended to be discharged in consequence of wounds or other injuries received while actually in the service of the United States, and *in the line of his duty*, and which disable him from obtaining his subsistence, his commanding officer shall certify the *time, place, and manner* of receiving such wound or disability; *if wounded in action*, state the fact, and name the part wounded; *if otherwise injured and disabled*, describe the circumstances, the manner of receiving the injury, and the kind of duty in which the soldier was engaged at the time. And the senior surgeon of the hospital, regiment, or post, upon obtaining sufficient evidence of the facts, shall furnish duplicate *certificates for pension*, agreeably to form 17, Medical Regulations; which duplicate certificates and *descriptive certificate* annexed thereto, properly filled up and signed by the captain, shall be transmitted by the commanding officer of the regiment or post, with such remarks as he may deem requisite, to the Adjutant General, one of which shall be retained for the files of his office, and the other be sent to the Pension office.

226. The requisite authority for the discharge of an invalid soldier on application, for a *pension*, is the same as in the case of *ordinary disability*.—(See 224.)

[Declaration of an applicant for a military invalid pension.]

} ss.

[Here the applicant must describe the branch of the military service in which he was engaged, whether in the regular army of the United States, or State corps of any denomination in the service of the United States; also the rank or capacity in which he served, the name of the captain of the company, the colonel of the regiment, or other higher officer, under whom he served; and also the battle, engagement, or other occupation in the line of his duty in which he incurred or contracted his disability, setting forth in concise terms the nature and continuance of the disease, or the location, nature, and continuance of the injury.]

He makes this declaration for the purpose of being placed on the invalid pension roll of the United States, and of obtaining the pension to which he may be entitled under the act of (j.) , granting pensions to persons disabled in the military service of the United States.

I certify that the foregoing declaration was sworn to before me, this _____ day of _____, 18____, C** D***, J. P.

88.

I, _____, clerk of the court of _____, in and for the said county, do hereby certify that [C** D**], Esq., whose name appears to the foregoing certificate, was, at the time of signing the same, an acting justice of the peace, (or other officer,) within and for the said county, duly commissioned and qualified according to law, and that, as such, full faith and credit are due to his official acts.

In testimony whereof I have hereunto set my hand, and affixed the seal of our said court, at _____, this _____ day of _____ 185 ____.

[L. S.] C** C**, Clerk of ____.

- (a.) Here insert the name of the magistrate (or other person) authorized to administer oaths.
- (b.) Here insert the name of the applicant in full.
- (c. d.) Here insert the name of the place, and the State, of his residence.
- (e.) Here insert his age, as nearly as may be.
- (f.) Here repeat the name of the applicant.
- (g.) Here state the rank, or capacity in which he served.
- (h. i.) Here state his enlistment, or other mode of entering the military service, the time and place as nearly as may be.
- (j.) Here insert the title and date of the act under which the applicant claims a pension.

* If the claimant was discharged on the surgeon's "*certificate of ordinary disability*" not then deemed sufficient to justify a surgeon's "*certificate for a pension*," and nevertheless the disability has continued or increased, he must so state the facts in the *declaration*, and modify that paragraph accordingly, and request that a "*medical survey*" or examination of the disability may be ordered, to ascertain and report the degree of existing disability, which will govern the rate of pension he may be entitled to. See these three *forms* at page 5-5, ante, observed in the naval service, which are here referred to merely for the information of the claimant or agent, as identical with those observed under like circumstances in the military service.

[2.]

[Declaration of an applicant for a naval invalid pension.]

STATE [TERRITORY, OR DISTRICT] OF
County [Parish, or City] of

} ss.

On this day of , one thousand eight hundred and fifty , personally appeared before me (a.) , a justice of the peace within the county and State aforesaid (b.) , a resident of (c.) , in the State of (d.) , aged (e.) years, who being first sworn according to law, doth on his oath make the following declaration: That he is the identical (f.) , who was a (g.) in the naval service of the United States; that he (h.) , on the (i.) day of (i.) , in the year of (i.) at (i.) , in the State of (i.) , in the

[Here the applicant must describe the branch of the naval service in which he was engaged, whether at a navy yard, or on board a ship, naming the same; also the rank or capacity in which he served, the name of the commanding officer under whom he served, and the engagement, or other occupation, in the line of his duty, in which he incurred or contracted his disability—setting forth in concise terms the nature and continuance of the disease, or the location, nature, and continuance of the injury.]

And he further states, that he was honorably discharged, as may be seen by the discharge herewith, [or explain its absence,] on account of said disability, upon the surgeon's "certificate for a pension,"* and recommending a discharge, as may be found reported by the commanding officer, approving the same, on file in the Navy Department at Washington; for the existing degree and continuance of which disability he requests a medical survey may be ordered.

He makes this declaration for the purpose of being placed on the medical invalid pension roll of the United States, and of obtaining the pension to which he may be entitled, under the act of (j.) , granting pensions to persons disabled in the naval service of the United States.

[Signed.] A** B**.

I certify that the foregoing declaration was sworn to before me, this day
of 185 C** D**, J. P.

STATE OF
County of

} ss.

I, , clerk of the court of , in and for the said county, do hereby certify, that [C** D**] Esq., whose name appears to the foregoing certificate, was, at the time of signing the same, an acting justice of the peace, [or other officer,] within and for the said county, duly commissioned and qualified, according to law, and that as such, full faith and credit are due to his official acts.

In testimony whereof I have hereunto set my hand, and affixed the seal of our said court, at , on this day of , 185 .
[L. S.] C** C**, Clerk of .

(a.) Here insert the name of the magistrate (or other person) authorized to administer oaths.

(b.) Here insert the name of the applicant in full.

(c. d.) Here insert the name of the place, and the State, of his residence.

(e.) Here insert his age, as nearly as may be.

(f.) Here repeat the name of the applicant.

(g.) Here state the rank or capacity in which he served.

(h. i.) Here state his enlistment, or other mode of entering the naval service, the time and place as nearly as may be.

(j.) Here insert the date and title of the act under which the applicant claims a pension.

*If the claimant was discharged on the surgeon's "certificate of ordinary disability," not then deemed sufficient to justify a surgeon's "certificate for a pension," and nevertheless the disability has continued or increased, he must so state the facts in the declaration, and modify that paragraph accordingly, and request that a "medical survey," or examination of the disability may be ordered, to ascertain and report the degree of existing disability, which will govern the rate of pension he may be entitled to. See these three forms at page 555, ante, which are here referred to for the information of the claimant or agent.

[3.]

[Declaration of an applicant for a privateer invalid pension.]

STATE] TERRITORY, OR DISTRICT] OF
County [Parish, or City] of

} ss.

On this day of , one thousand eight hundred and fifty ,
personally appeared before me (a.) , a justice of the peace within the county
and State aforesaid (b.) , a resident of (c.) , in the State of
(d.) , aged (e.) years, who being first sworn according to law,
doth on his oath make the following declaration: That he is the identical (f.)
who was a (g.) in the privateer service of the United States: that he, (h.)
on the (i.) day of (i.) , in the year of (i.)
at (i.) , in the State of (i.) , in the

[Here the applicant must state the name and class of the private armed ship, duly commissioned, on board of which he served; also the rank or capacity in which he served, the name of the officer in command, and the engagement, or other occupation, in the line of his duty, in which he incurred or contracted his disability—setting forth in concise terms the nature and continuance of the disease, or the location, nature, and continuance of the injury; and make due reference to the "transcript" from the "journal" of the commanding officer, communicated to the Secretary of the Navy, in pursuance of the requirements of the 3d and 4th sections of the act of the 13th February, 1813.]

He makes this declaration for the purpose of being placed on the privateer pension roll of the United States, and of obtaining the pension to which he may be entitled, under the act of (j.) granting pensions to persons disabled in the privateer service of the United States.

[Signed] A** B**.

I certify that the foregoing declaration was sworn to, before me, this day
of , 185 . C** D*** J. P.

STATE OF
County of

} ss.

I, , clerk of the court of , in and for said county, do hereby
certify that [C** D***] Esq., whose name appears to the foregoing certificate, was, at
the time of signing the same, an active justice of the peace, [or other officer,] within and
for the said county, duly commissioned and qualified, according to law, and that as such
full faith and credit are due to his official acts.

In testimony whereof I have hereunto set my hand and affixed the seal of our said
court at on this day of 185 .
C** C**, Clerk of ———.

(a.) Here insert the name of the magistrate (or other person) authorized to administer oaths.

(b.) Here insert the name of the applicant in full.

(c. d.) Here insert the name of the place, and the State, of his residence.

(e.) Here insert his age, as nearly as may be.

(f.) Here repeat the name of the applicant.

(g.) Here state the rank, or capacity in which he served.

(h. i.) Here state his enlistment, or other mode of entering the privateer service, the time and place as nearly as may be.

(j.) Here insert the date and title of the act under which he claims a pension.

¶ When widows or orphans, or the guardians of the latter, claim pensions in consequence of the death of the husband or father disabled or killed in the military, naval, marine, or privateer service, a reference to the proper reports, on file in the War or Navy Department, would greatly facilitate the action on their claims.

¶ We would farther remark here, in continuation of our remarks at pages 17-20, of the *Introduction*, that if the pension branch of the War Department, after the battle of the Wabash, or when the State authorities were no longer required to authenticate and transmit invalid claims to the Department, had adopted the form of oath prescribed by Congress to be taken and subscribed by claimants before a magistrate or justice of the peace, (to be seen in article 8, of the resolution of June 7, 1785, page 11, ante,) as the basis for substantiating their claims, it would in a great degree have anticipated and provided against the embarrassments occasioned by the *entire omission* of the customary guide of a "declaration" in presenting invalid claims thereafter.

ARMY AND NAVY PAY AT DIFFERENT PERIODS.

Those divisions of our pension system which grant pensions according to the *rates of the monthly pay* which the soldier, the seaman, the marine, or the privateer, might be entitled to receive at the time the service in question was rendered, necessarily call for a knowledge of such *rates of pay* which the parties were entitled to receive in those respective branches of service at the time of said service, for which they or their legal representatives claim a pension. In some instances Congress overrules, or makes exceptions to, those fixed rates of pay established at different periods in the different branches of the military and naval service. It is to afford every facility of making estimates of pensions in those different branches, as well by claimants and agents as by the Pension Office itself, for every fraction of a month, down to a single day, that the following "TABLES OF PAY" are here introduced, from the most authentic sources. But the exceptions above alluded to, should always be kept in view, as varying the rates of pension in such cases.

Those of the *regular army* throw themselves under three periods, viz: 1. During the revolution, to the end of the war in 1783. 2. During the war of 1812, to the end of that war in 1815. 3. During the period subsequent to that war, coming down to 1852. The schedules of pay for the two first periods are taken from the report of Nathaniel Fry, esq., of the Pay Department, as found in the "American State papers." The third schedule of pay is taken from the Army Register of 1852. It will be found by comparing the tables of those periods, that the pay did not vary so much as to make a material difference in the rates of pension which those of the military service, or their widows, orphans, or legal representatives, might be entitled to receive under the contingencies accruing. To exhibit the comparison of these rates in one general table, was found to be impracticable, because the denominations of officers for those periods did not sufficiently correspond to accomplish that desirable object.

The *rates of monthly pay* in the *naval service* are, from the nature of the subject, in some degree parallel with those of the army, but more brief as to periods of time, throwing themselves into two periods only: 1. The first period, for the want of materials to make an estimate of the variations of navy pay from the beginning to the year 1813, is here unavoidably assumed to be represented by the *rates* of that year, taken from the authentic pay table of the "accountant of the Navy Department," for the year 1813. 2. The *rates* of the second period, also gradually varying from 1813 to 1835, are taken from the pay table of the "Navy Register," for the latter year 1835; which register had been "printed (annually) by order of the Secretary of the Navy, in compliance with a resolution of the Senate of August 2, 1813;" so that this series of registers show whatever variations took place in

the rates of *navy pay* anterior to 1835. The table of that period here given is a schedule of the *half-pay* instead of the full-pay; so arranged, for the use of the pension office in estimating pensions, probably very soon after the passage of the act of the 3d March, 1837, fixing the half-pay of 1835, as the basis of navy pensions to be allowed thereafter. It only remains to explain why Congress, in 1837, fell back upon the rates of pay in force on the 1st January, 1835, for which see note at page 682.

(*American State Papers, Military Affairs*, vol. 1, pp. 792-93.)

PAYMASTER GENERAL'S OFFICE, October 24, 1818.

SIR: Conformably to your letter of the 6th instant, I have the honor to transmit you statements showing the monthly pay and emoluments of the troops of the United States.

1st. At the close of the Revolutionary war in the year 1783; and

2d. At the close of the late war with England, in the year 1815.

The first I have elicited exclusively from the thirteen volumes of journals of the old Congress, from the 5th September, 1774, forward; and as the subject is involved in some considerable obscurity, from the frequent repeals and reorganizations which took place respecting the army, sometimes partial and sometimes total, I cannot be answerable that it is perfectly correct; it is the best, however, that the materials afford, the time allowed, and my other duties have permitted me to make, and I hope may not prove unacceptable.

To Hon. J. C. CALHOUN, Sec. War.

NATHANIEL FRY, Jun. Ch. Clk.

The following are the schedules of MONTHLY PAY (emoluments and allowances omitted) of the Army at the close of the Revolutionary war, in the year 1783; and of the Army, at the close of the late war with Great Britain, in the year 1815; and of the Army, as at present organized, according to the Army Register of 1852:

1. *Pay of the Army at the close of the war, in 1783.*

[1. The pay thus marked (*) in schedules 1 and 2, is an addition to such officers pay in the line, from which they are required to be taken in each instance. 2. (†) No *adjutant* to the corps of engineers, and no *paymaster* to the corps of artillery or regiment of dragoons: In their respective corps, &c., they receive \$10 in addition to their pay as *subalterns*. 3. (‡) Officers of the *rangers when mounted*, receive the same pay, &c., as *dragoon officers*; when *not mounted*, the same pay as *infantry officers*. The blanks in the pay columns show that there are no such officers in those corps, in the last section of table 2, page 677.]

Rank or Grade.	Pay per month.	Rank or Grade.	Pay per month.
Major general.....	\$166	Assist' inspector for separate army...	\$10*
Aid-de-camp.....	50	Paymaster general, (\$14,000, <i>currency of the day</i>).....	150
Brigadier general of cavalry.....	156‡	Dep. paymaster gen'l., and asst. dep. paymaster gen'l., 8-10 per cent. on the money they disburse.	
Brigadier general.....	125	Dep. paym'ter gen. for Sou'h'n army	75
Aid-de-camp.....	50	Dep. paymaster gen'l for main army	75
Brig. maj. of cav'y, artil'y, or inf'y	50	Assistant paymaster general.....	70
Brigade quartermaster.....	15*	Director of hospital.....	102
Brigade chaplain.....	50	Deputy director of hospital and physician.....	100
Quartermaster general.....	166‡	Surgeon.....	90
Dep. qr. m'r gen. with South'n army	125	Apothecary and purveyor.....	92
Do. do. do. main army....	75	Deputy apothecary and purveyor....	59
Assistants, each.....	30	Mates, each.....	42
Comm'ry of forage for main army...	60	Stewards, each.....	31
Do. do. for South'n army	60	Ward masters, each.....	21
Wagon master.....	60	Commissary general of military stores, \$1,000 per annum.	
Dep. wagon master for South'n army	50	Assistants, or superintendants, to be taken from officers of the army—no additional pay.	
Wagon conductor.....	20	Field commissary of military stores..	50
Director of artificers.....	40	Dep. field commiss'y of military stores	40
Sub-director of artificers.....	26‡	Conductor or clerk.....	30
Adjutant general.....	125	Commis's of prisoners for army, each	75
Deputy adjutant general.....	75		
Assistant adjutant general.....	50		
Ass. deputy adjutant general.....	50		
Clerk to adjutant general.....	40		
Inspector general.....	300		
His Secretary.....	50		
Inspector for separate army.....	30*		

Rank or Grade.	Pay per month.	Rank or Grade.	Pay per month.
Assistant commissaries of prisoners for army, each.....	\$40	Colonel of cavalry.....	\$93½
Commiss'y of marine prisoners, alias dep. with separate army, \$1,200 per annum.....		Lieutenant colonel.....	75
Geographer to the main army.....	60	Major.....	60
Geographer to Southern department	60	Captain.....	50
Assistant geographer.....	30	Lieutenant.....	33½
Chain-bearer.....	15	Cornet.....	26½
Judge advocate.....	75	Riding master (not commissioned)..	33½
Dep. judge advocate for Southern army (taken from office's of the line)	60	Paymaster of battalion.....	25*
Dep. judge advocate, (in same army with judge advocate,) in addition to pay in the line.....	15*	Adjutant of battalion.....	15*
Clothier general, \$5,000 per annum.		Quartermaster of battalion.....	15*
Deputies—(compensation fixed by clothier general.)		Surgeon of battalion.....	60
Surveyor of ordnance.....	40*	Surgeon's mate.....	40
Inspector of rations, &c., for Southern army.....	166½	Quartermaster sergeant.....	15
Inspector of do. &c., for main army	166½	Sergeant.....	15
Captain of engineers.....	50	Trumpet major.....	11
Lieutenant.....	33½	Trumpeter.....	10
Sergeant.....	10	Saddler.....	10
Corporal.....	9	Farrier.....	10
Private.....	8½	Corporal.....	10
Colonel of artillery.....	100	Dragoon.....	8½
Lieutenant colonel.....	75	Colonel of infantry.....	75
Major.....	62½	Lieutenant colonel.....	60
Captain.....	50	Major.....	50
Captain lieutenant.....	33½	Captain.....	40
First lieutenant.....	33½	Captain lieutenant.....	26½
Second lieutenant.....	33½	Lieutenant.....	26½
Paymaster and clothier.....	30*	Ensign.....	20
Adjutant.....	16*	Paymaster and clothier.....	30
Quartermaster.....	16*	Adjutant.....	13
Surgeon.....	59	Quartermaster.....	13*
Surgeon's mate.....	42	Surgeon.....	59
Sergeant major.....	11½	Surgeon's mate.....	40
Quartermaster sergeant.....	11½	Sergeant major.....	10
Fife major.....	10½	Quartermaster sergeant.....	10
Drum major.....	10½	Sergeant.....	10
Sergeant.....	10	Drum major.....	9
Bombardier.....	9	Fife major.....	9
Corporal.....	9	Drummer.....	7½
Gunner.....	8½	Fifer.....	7½
Drummer.....	8½	Corporal.....	7½
Fifer.....	8½	Private.....	6½
Matross.....	8½	Captain of provosts.....	50
		Lieutenant.....	33½
		Clerk.....	33½
		Quartermaster sergeant.....	15
		Sergeants.....	15
		Trumpeters.....	10
		Corporals.....	10
		Executioners.....	10
		Provosts or privates.....	8½

2. Pay of the Army at the close of the war, in 1815.

Major general.....	\$200	Adjutant general.....	\$90
Sec. to general commanding army..	24*	Inspector general.....	75
Aid-de-camp to major general.....	24*	Assistant inspector general.....	60
Brigadier general.....	104	Topographical engineer.....	60
Aid to brigadier general.....	20*	Assistant topographical engineer...	40
Brigade major.....	24*	Paymaster general.....	166½
Brigade chaplain.....	50	Deputy paymaster general.....	50*
Judge advocate.....	50	Assistant deputy paymaster general.	30*
Adjutant and inspector general.....	104	District paymaster.....	50

Rank or Grade.	Pay per month.	Rank or Grade.	Pay per month.
Assistant district paymaster.....	\$40	Third lieutenant of ordnance.....	\$30
Quartermaster general.....	104	Master armorer of ordnance.....	30
Quartermaster General.....	75	Master carriage-maker of ordnance.....	30
Deputy quartermaster general.....	60	Master blacksmith of ordnance.....	30
Assistant deputy quartermaster gen'l.....	40	Armorer of ordnance.....	16
Principal wagon master.....	40	Carriage maker of ordnance.....	16
Wagon master.....	30	Blacksmith of ordnance.....	16
Assistant forage master.....	30	Artificer of ordnance.....	13
Conductor of artillery.....	33½	Laborer of ordnance.....	9
Principal barrack master.....	40	Physician and surgeon general.....	208½
Deputy barrack master.....	30	Apothecary general.....	150
Commissary general of purchases.....	250	Assistant apothecary.....	45
Deputy commissary of purchases, 2½ per cent. on disbursements.		Hospital surgeon.....	75
Super. general of military supplies.....	250	Hospital surgeon's mate.....	40
Special commiss'y of milit'y supplies.....	60	Steward of hospital.....	20
Asst. commiss'y of military supplies.....	60	Ward master of hospital.....	16
Superintendent of artificers.....	45	Garrison surgeon.....	45
Assistant superintendent of artificers.....	30	Garrison surgeon's mate.....	30
Master workman of artificers.....	30	Professor of natural & experimental philosophy.....	60
Under workman of artificers.....	16	Asst. professor of do. do.....	40
Colonel of ordnance.....	90	Professor of mathematics.....	50
Lieutenant colonel of ordnance.....	75	Asst. professor of mathematics.....	40
Major of ordnance.....	60	Professor of the art of engineering.....	50
Captain of ordnance.....	50	Asst. professor do. do.....	40
First lieutenant of ordnance.....	33½	Teacher of the French language....	40
Second lieutenant of ordnance.....	33½	Teacher of drawing.....	40

Rank or Grade of officers of all military corps.	Corps of Engin's	Light Inf'try.	Corps of Artill'y.	Light Drag's.	Inf. and riflemen.	Rangers.	Sea fen- cibles.
Colonel.....	\$75	\$90	\$90	\$90	\$75		
Lieutenant colonel.....	60	75	75	75	60		
Major.....	50	60	60	60	50		
Adjutant and paymaster, each.....	10†	10†	10†	10†	10†		
Quartermaster.....		10	10	10	10		
Surgeon.....		60		60	60		
Surgeon's mate.....		45		45	45		
Sergeant major.....		12		12	12		
Quartermaster sergeant.....		12	12	12	12		
Principal musician.....	11	11		11	11		
Captain.....	40	50	50	50	40	50†	40
First lieutenant.....	30	33½	33½	33½	30	33½	30
Second lieutenant.....	25	33½	33½	33½	25	33½	25
Do. and conductor of artillery.....			33½				
Third do. do. do.		30	30	30	23	30	23
Cornet.....				26½			
Ensign.....				26½	20	26½	
Riding master.....				26½			
Master of the sword.....				26½			
Cadet of military academy.....	16						
Sergeant.....	11	11	11	11	11		
Corporal.....	10	10	10	10	10		
Musician.....	9	9	9	9	9		
Private.....	8	8	8	8	8		
Boatswain of sea fencibles.....							20
Gunner of do.							20
Quarter gunner of do.							18
Men of do. do.							12
Driver of artillery.....		8					
Artificer.....	13	13					
Saddler.....		13		13			
Farrier.....		13		13			
Blacksmith.....				13			

3. Pay of the Army, according to the pay table of 1852.

Rank or Grade.	Pay per month.	Rank or Grade.	Pay per month.
Major general.....	\$200	Col. of engin'rs, topographical eng. ordn'ce, drag'ns, or m'ted riflemen	\$90
Aid-de-camp, in addition to pay, &c. of lieutenant.....	24	Lt. col. of do. do. do. do. do.	75
Brigadier general.....	104	Major of do. do. do. do. do.	60
Aid-de-camp to brigadier general, in addition to pay, &c. of lieutenant	20	Captain of do. do. do. do. do.	50
Adjutant general.....	90	Lt., 1st & 2d, do. do. do. do.	33½
Asst. adj. gen'l, with rank of lt. col.	75	Adj. of drag. in addition to pay, &c. of lieutenant.....	10
Asst. adj. gen'l, with rank of major..	60	Regimental qr. master of drag., in addition to pay, &c., of lieut.....	10
Asst. adj. gen'l, with rank of captain	50	Serg. maj. of drag. or m't'd riflemen	17
Quartermaster general.....	104	Q'rmaster serg. of drag. do.	17
Inspector general.....	90	Chief bugler of do. do.	17
Assistant quartermaster general.....	90	First sergeant of do. do.	16
Deputy quartermaster general.....	75	Sergeant of do. do. do.	13
Quartermaster.....	60	Corporal of do. do. do.	10
Assistant quartermaster.....	50	Bugler of do. do. do.	9
Paymaster general, \$2,500 per ann.	75	Far. & blacks'h of do. do. do.	11
Deputy paymaster general.....	60	Private of do. do. do.	8
Paymaster.....	60	Master armorer, master carriage maker, master blacksmith, of ordn'ce	30
Commissary general of subsistence..	90	Armorer of ordnance.....	16
Asst. commiss'y gen'l of subsistence	75	Blacksmith of do. do. do.	16
Commissary of subsistence with rank of major.....	60	Carriage maker of do. do. do.	16
Commissary of subsistence, with rank of captain.....	50	Artificer of do. do. do.	13
Asst. commissary of subsistence, in addition to pay, &c., of lieutenant	20	Laborer of do. do. do.	9
Surgeon general, \$2,500 per annum.	60	Hospital steward, at a post of more than four companies, pay of ordnance sergent.....	18
Surgeon of 10 y'rs. serv. in that grade	60	Hospital steward, pay of first. serg't	16
Surgeon, less than 10 years' service	60	Matron.....	6
Asst. surgeon of 10 years' service...	50	ARTILLERY AND INFANTRY.	
Asst. surgeon of 5 years' service....	50	Colonel.....	75
Asst. surgeon, less than 5 years' service.....	33½	Lieutenant colonel.....	60
Prof. of natural and experimental philosophy.....	75	Major.....	50
Asst. prof. of do. do. do. do. do.	50	Adj., in addition to pay, &c. of lieut.	10
Professor of mathematics and commander of corps of cadets, each...	60	Regimental quartermaster, in addition to pay, &c., of lieutenant....	10
Assistant professor of mathematics.	50	Captain.....	40
Professor of engineering.....	60	First lieutenant.....	30
Asst. prof. of engineering and instructor of practical engineering, each.	50	Second lieutenant.....	25
Professor of chemistry, mineralogy, and geology.....	60	Cadet.....	24
Asst. prof. of chemistry, mineralogy, and geology, and asst. prof. of ethics, each.....	50	Sergeant major.....	17
Chaplain and professor of ethics.....	60	Quartermaster sergent.....	17
Teacher of French language.....	50	Principal musician of infantry.....	17
Teacher of drawing.....	50	First sergeant.....	16
Master of the sword.....	46½	Ord. serg., in addition to pay, of serg.	5
Military storekeeper, clothing dep't, \$1,250 per annum.		Sergeant.....	12
Storekeeper of ordnance at arsenals of construction, \$1,250 per ann.		Corporal.....	9
Storekeeper of ordn'ce, \$800 per an.		Artificer of artillery.....	11
Chaplain not to exceed.....	40	Musician.....	8
		Private.....	7
		SAPPERS, MINERS AND PONTONIERS.	
		Sergeant.....	30
		Corporal.....	16
		Musician.....	8
		Private, of the 1st class.....	13
		Private, of the 2d class.....	9

The following are schedules of the MONTHLY PAY, (omitting rations and allowances,) in the Navy, during two periods, viz: 1st—to the year 1813; 2d—to the year 1835; which latter are made permanent; showing, also, the pay allowed to the several grades of officers of the Marine Corps, and engineers, expressed as half-pay, for the convenience of estimating pensions.

1. *Pay of the officers, &c., of the Navy, for the period ending in 1813.*

Rank or Grade.	Pay per month	Rank or Grade.	Pay per month.
Captain of a vessel of 32 guns and upwards.....	\$100	Midshipmen.....	\$19
Captain of a vessel of 20 and under 32 guns.....	75	Master's mate.....	20
Master commandant.....	60	Captain's clerk.....	25
Lieutenant.....	40	Boatswain's mate.....	19
Lieutenant commanding.....	50	Cockswain.....	18
Chaplain.....	40	Yeomen of the gun room.....	18
Surgeon.....	50	Quarter Gunner.....	18
Surgeon's mate.....	30	Quartermaster.....	18
Master.....	40	Carpenter's mate.....	19
Purser.....	40	Armorer.....	18
Boatswain.....	20	Steward.....	18
Gunner.....	20	Cooper.....	18
Sail-maker.....	20	Master-at-arms.....	18
Carpenter.....	20	Cook.....	18
		Seaman.....	12
		Ordinary seaman.....	10

2. *Half-pay per month of officers, &c., of the Navy, for the period ending with 1835.*

Navy.	Monthly pay.	Navy.	Monthly pay.
Captain.....	\$50	Stewards (all kinds).....	\$9
Commander, or Master commandant, and Lieut. commanding, }	30	Captain of main, or fore top, or fore-castle.....	7½
Lieutenant.....	25	Captain's clerk.....	12½
Sailing master or master.....	20	Purser's clerk.....	12½
Passed midshipman.....	12½	Ship's corporal.....	7
Midshipman.....	9½	Seamen.....	6
Surgeon, \$35 or 30—27½, or 25, according to length of service.		Ordinary seaman.....	5
Passed asst. surgeon, \$22½, or \$17½, according to length of service.		Landaman.....	4
Assistant surgeon.....	15	Boy.....	3
Purser.....	20	MARINE CORPS.	
Chaplain.....	20	Colonel.....	—
Pilot.....	20	Lieut. Colonel.....	30
Master's mate.....	10	Major.....	25
Gunner.....	10	Captain.....	20
Gunner's mate.....	9½	Lieutenant (1st and 2d).....	15
Boatswain.....	10	Orderly sergeant.....	8
Boatswain's mate.....	9½	Sergeant.....	6½
Carpenter.....	10	Corporal.....	4½
Carpenter's mate.....	9½	Private.....	3½
Sailmaker.....	10	Musician.....	4
Sailmaker's mate.....	9½	ENGINEERS.	
Master-at-arms.....	9	Engineer-in-chief.....	—
Armorer.....	9	Chief engineer.....	25
Cook.....	9	1st assistant engineer.....	15
Cockswain.....	9	2d do. do.....	10
		3d do. do.....	10
		Firemen, (1st and 2d class).....	6
		Coal Heavers.....	6

Pay Table of the officers &c., of the Navy, under the act of 2d March, 1835, from Navy Register of 1852.

GRADE.	On leave or waiting or ders.	Navy Yard, or other duty.	Sea service.	Of the Fleet.
CAPTAINS—				
Senior captain	\$3,500 00	\$4,500 00	\$4,500 00	.....
Captains of squadrons.....			4,000 00	.....
Other captains.....	2,500 00	3,500 00	3,500 00	.....
COMMANDERS—	1,800 00	2,100 00	2,500 00	.....
LIEUTENANTS commanding			1,800 00	.....
Other lieutenants.....	1,200 00	1,500 00	1,500 00	.....
SURGEONS— 1st five years after date of commission.....	1,000 00	1,250 00	1,333 33	\$1,500 00
2d five years after date of commission.....	1,200 00	1,500 00	1,600 00	1,800 00
3d five years after date of commission.....	1,400 00	1,750 00	1,866 66	2,100 00
4th five years after date of commission.....	1,600 00	2,000 00	2,133 33	2,400 00
twenty years and upwards.....	1,800 00	2,250 00	2,400 00	2,700 00
PASSED ASSISTANT SURGEONS—	850 00	1,150 00	1,200 00	.....
ASSISTANT SURGEONS—	650 00	950 00	950 00	.....
PURSERS— of ships of the line.....			3,500 00	.....
of frigates or razees.....			3,000 00	.....
of sloops or steamers of 1st class of brigs, schooners, and steamers, less than 1st class.....			2,000 00	.....
of naval station, California		3,000 00		.....
of navy yards and receiving ships at Boston, New York, and Norfolk, and navy yard at Pensacola.....		2,500 00		.....
of navy yards at Portsmouth, Phila. and Washington.....		2,000 00		.....
of naval stations within the U. S., and at other places.....		1,500 00		.....
1st five years after date of com.	1,000 00			.....
2d five years after date of com.	1,200 00			.....
3d five years after date of com.	1,400 00			.....
4th five years after date of com.	1,600 00			.....
twenty years and upwards.....	1,800 00			.....
CHAPLAINS—	800 00	1,200 00	1,200 00	.....
PROFESSORS OF MATHEMATICS—	800 00	1,500 00	1,500 00	.....
PASSED MIDSHIPMEN—	600 00	750 09	750 00	.....
MIDSHIPMEN—	300 00	350 00	400 00	.....
MASTERS— in ships of the line.....			1,100 00	.....
other masters.....	750 00	1,000 00	1,000 00	.....
MASTER'S MATES, (warranted.)—	300 00	450 00	450 00	.....
BOATSWAINS— of ships of the line.....			800 00	.....
of navy yards at Boston, N. Y., Norfolk, & Pensacola		800 00		.....
on other duty.....		700 00	700 00	.....
for 1st ten years service	500 00			.....
after 1st ten years service....	600 00			.....
GUNNERS, CARPENTERS, SAILMAKERS, } same as boatswains .....				.....
CHIEF ENGINEERS— 1st five years.....	1,200 00	1,500 00	1,500 00	.....
after five years.....	1,400 00	2,000 00	2,000 00	.....
FIRST ASSISTANT ENGINEERS—	850 00	1,000 00	1,000 00	.....
SECOND ASSISTANT ENGINEERS—	600 00	800 00	800 00	.....
THIRD ASSISTANT ENGINEERS—	400 00	600 00	600 00	.....

Grade	Pay per ann'm.	Grade.	Pay per month.
Navy agents, commis. not to exceed..	\$2,000	Mates—gunner's.....	\$19
Temporary navy agents.....		carpenter's.....	19
Naval storekeepers.....		sailmaker's	15
Officers of navy, on for'gn stations	1,500	armorers.....	15
Engineer-in-Chief.....	3,000	Master-at-arms.....	19
Naval constructors.....	2,300	Ship's corporals.....	15
Agents for inspection, &c. of hemp..	1,000	Coxswains.....	18
preserv. of live oak timb.	1,000	Quartermasters.....	18
Secretaries to commanders of squad-		Quarter gunners.....	15
rons, when commanding in chief.	1,000	Captains of forecattle.....	18
Do. do. not commanding in chief..	900	tops.....	15
Clerks of yards, or of com. of yards	900	afterguard	15
second to command's of yards	750	hold.....	15
to commanders of squadrons.	500	Coopers.....	15
to captains of fleets and com-		Painters.....	15
manders of vessels.....	500	Stewards—ship's	24
or assts. to pursers in ships of		officer's.....	18
the line.....	700	surgeon's.....	18
in frigates and navy yards, at		Cooks—ship's.....	18
Boston, N. Y., and Norf'k	500	officer's.....	15
	Pay per month.	Masters of the band.....	18
Yeomen—in ships of the line.....	40	Musicians—first class.....	12
frigates.....	35	second class.....	10
sloops.....	25	Seamen	12
smaller vessels.....	18	Ordinary seamen.....	10
Armorer's—in ships of the line.....	25	Landsmen	9
frigates.....	20	Boys	6 to 8
sloops.....	15	Firemen—first class.....	30
Mates—Master's, (not warranted)..	25	second class.....	20
boatswain's.....	19	Coal heavers.....	15

Table showing the pay allowed to the several grades or officers of the Marine Corps.

Grade.	Pay per month.	Grade.	Pay per month.
COLONEL COMMANDANT	\$75	CAPTAIN—	
LIEUT. COLONEL—		Commanding a guard in receiving	
At sea or on leave.....	60	ship or squadron—of 20 years'	
Commanding	60	service.....	\$40
MAJORS—		FIRST LIEUTENANTS—	
At sea or on leave.....	50	At sea or on leave—of 20 years'	
Commanding	50	service.....	30
STAFF CAPTAINS—		At sea or on leave—of 15 years'	
Adjutant and inspector.....	60	service.....	30
Pay and quartermasters, each....	60	At sea or on leave—of 10 years'	
STAFF LIEUTENANTS—		service.....	30
Assistant quartermaster.....	50	On shore duty—of 20 yrs. service	30
CAPTAINS—		On shore duty—of 15 yrs. service	30
At sea or on leave—of 30 years'		On shore duty—of 10 yrs. service	30
service	40	Commanding guard in receiving	
At sea or on leave—of 25 years'		ship or squadron—of 15 years'	
service	40	service.....	30
At sea or on leave—of 20 years'		Commanding guard in receiving	
service	40	ship or squadron—of 15 years'	
On shore duty—of 30 yrs. service	40	service.....	30
On shore duty—of 25 yrs. service	40	Commanding guard in receiving	
On shore duty—of 20 yrs. service	40	ship or squadron—of 10 years'	
Commanding a guard in receiving		service.....	30
ship or squadron—of 30 years'		SECOND LIEUTENANTS—	
service.....	40	At sea or on leave—of 10 years'	
Commanding a guard in receiving		service.....	25
ship or squadron—of 25 years'		At sea or on leave—of 5 years'	
service.....	40	service.....	25

NAVY PAY.

Grade.	Pay per month.	Grade.	Pay per month.
SECOND LIEUTENANTS—		Commanding guard in receiving	
At sea or on leave—of less than		ship or squadron—of 10 years'	
5 years' service.....	\$25	service	\$25
On shore duty—of 10 years ser-	25	Commanding guard in receiving	
vice	25	ship or squadron—of 5 years'	
On shore duty—of 5 years ser-	25	service	25
vice	25	Commanding guard in receiving	
On shore duty—of less than five	25	ship or squadron—of less than	
years' service.....	25	5 years' service.....	25

Notes.—On the 3d March, 1835, Congress passed "an act to regulate the pay of the navy," by which the emoluments, rations, and allowances of all kinds were consolidated into one gross aggregate or annual salary. But as the pension laws previous to 1835, had uniformly fixed the rates of pensions by the rates of pay in either branch of the service, it became necessary to guard against the possible construction of this law so as to authorize the making the new rates of pay a new basis for the rates of navy pensions, which would have given new pensioners an average in nearly to 20 times the amount from the day of its passage that they would have been entitled to the day before. We have added the tables of pay fixed by that act, to make the contrast more striking.

BOUNTY LAND ACT

OF

MARCH 22, 1852.

From a wish to place everything connected with bounty lands or pensions, in the possession of claimants, agents, and others interested, we avail ourselves of the opportunity, at the last moment, to append this act, with the *forms* and *instructions* relating to its execution, issued partly from the General Land Office, and partly from the Pension Office.

AN ACT making Land Warrants assignable, and for other purposes.

1. All warrants issued, or to be issued, under any law, for military bounty land, declared to be *assignable*, under regulations of the General Land Office, and may be used in payments for lands sold. 2. Assignees or holders to pay to registers and receivers the same pay for locating said warrants, to which they are entitled for locating public lands when sold. 3. Registers and receivers entitled to receive from the Treasury like fees for like locations already performed, with certain exceptions and qualifications. 4. Militia, volunteers, or State troops, who have been called into service, and have been paid by the United States, since the twenty-eighth June, eighteen hundred and twelve, entitled to the benefits of the act of the twenty-eighth September, eighteen hundred and fifty, upon proof of length of service therein required: The last *proviso* of the ninth section of act of eleventh February, eighteen hundred and forty-seven, repealed; *provided*, that no person having already received bounty land shall be entitled to additional bounty land by authority of this act. 5. Time consumed, at twenty miles a day, in marching to the place where mustered into service, or from the place of discharge, to be computed in the estimate of *term of service* that determines the quantity of land to which the claimant shall be entitled.

APPROVED, MARCH 22, 1852.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all warrants for military bounty land, which have been or may hereafter be issued under any law of the United States, and all valid locations of the same, which have been or may hereafter be made, are hereby declared to be assignable, by deed or instrument of writing, made and executed after the taking effect of this act according to such form, and pursuant to such regulations as may be prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owners of the warrant or location: Provided, That any person entitled to pre-emption right to any land, shall be entitled to use any such land warrant, in payment of the same, at the rate of \$1 25 per acre, for the quantity of land therein specified: Provided, That the warrants which have been or may hereafter be issued in pursuance of said laws, or of this act, may be located, according to the legal subdivisions of the public lands, in one body, upon any lands of the United States, subject to private entry at the time of such location, at the minimum price: Provided further, That

when said warrants shall be located on lands which are subject to entry at a greater minimum than \$1 25 per acre, the locator of said warrants shall pay to the United States in cash the difference between the value of such warrants at \$1 25 per acre, and the tract of land located on.

SEC. 2. *And be it further enacted*, That the registers and receivers of the land offices shall hereafter be severally authorized to charge and receive for their services in locating all military bounty land warrants, issued since the 11th day of February, 1847, the same compensation or per centage to which they are entitled by law for sales of the public lands for cash, at the rate of \$1 25 per acre, the said compensation to be hereafter paid by the assignees or holders of such warrants.

SEC. 3. *And be it further enacted*, That registers and receivers, whether in or out of office, at the passage of this act, or their legal representatives in case of death, shall be entitled to receive from the Treasury of the United States, for services heretofore performed in locating military bounty land warrants, the same rate of compensation provided in the preceding section for services hereafter to be performed, after deducting the amount already received by such officers under the act entitled "An act to require the holders of military land warrants to compensate the land officers of the United States for services in relation to the location of those warrants," approved May 17, 1848: *Provided*, That no register or receiver shall receive any compensation out of the treasury for past services who has charged and received illegal fees for the location of such warrants: *And provided further*, That no register or receiver shall receive for his services during any year a greater compensation than the maximum now allowed by law.

SEC. 4. *And be it further enacted*, That in all cases where the militia or volunteers or State troops of any State or Territory were called into military service, and whose services have been paid by the United States subsequent to the eighteenth of June, eighteen hundred and twelve, the officers and soldiers of such militia, volunteers, or troops, shall be entitled to all the benefits of the act entitled "An act granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," approved September twenty-eighth, eighteen hundred and fifty, and shall receive lands for their services according to the provisions of said act, upon proof of length of service as therein required; and that the last proviso of the ninth section of the act of eleventh of February, eighteen hundred and forty-seven, be and the same is hereby repealed: * *Provided*, That nothing herein contained shall authorize bounty land to those who have heretofore received or become entitled to the same.

SEC. 5. *And be it further enacted*, That where any company, battalion, or regiment, in an organized form, marched more than twenty miles to the place where they were mustered into the service of the United States, or were discharged more than twenty

miles from the place where such company, battalion, or regiment was organized; in all such cases, in computing the length of service of the officers and soldiers of any such company, battalion, or regiment, with a view to determine the quantity of land any officer or soldier is entitled to under said act, approved 28th of September, 1850, there shall be allowed one day for every twenty miles from the place where the company, battalion, or regiment was organized, to the place where the same was mustered into the service of the United States; and also one day for every twenty miles from the place where such company, battalion, or regiment was discharged, to the place where it was organized, and from whence it marched, to enter the service.

FORMS AND REGULATIONS FOR THE ASSIGNMENT OF LAND WARRANTS AND LOCATIONS.

GENERAL LAND OFFICE, *March 23, 1852.*

By the first section of the act of Congress entitled "An act making land warrants assignable, and for other purposes," approved March 22, 1852, it is provided: "That all warrants for military bounty land which have been, or may hereafter be issued, under any law of the United States, and all valid locations of the same, which have been, or may hereafter be made, are hereby declared to be assignable, by deed or instrument of writing, made and executed after the taking effect of this act, according to such form, and pursuant to such regulations as may be prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owners of the warrant or location."

In accordance with the provisions of this section, the following forms are prescribed for the assignment of the warrants and locations referred to, to wit:

[1.]

[Form for the assignment of the warrant.]

For value received, I, A. B., to whom the within warrant No. _____ was issued, do hereby sell and assign unto C. D., of _____ and to his heirs and assigns forever, the said warrant, and authorize him to locate the same, and receive a patent therefor.

Witness my hand and seal, this _____ day of _____, 185 .

Attest: E. F.
G. H.

A. B. [SEAL]

[Form of acknowledgement where the vender is known to the officer taking the acknowledgment.]

STATE OF _____ }
County of _____ } ss.

On this _____ day of _____, in the year _____, personally appeared [here insert the name of the warrantee] to me well known, and acknowledged the foregoing assignment to be his act and deed; and I certify that the said [here insert the name of the warrantee] is the identical person to whom the within warrant issued, and who executed the foregoing assignment thereof.

(Officer's signature.)

On this day of , in the year , personally came before me [here insert the name of the warrantee] and [here insert the name and residence of a witness,] and the said [here insert the name of the witness] being well known to me as a credible and disinterested person, was duly sworn by me, and on his oath declared and said, that he well knows the said [here insert the name of the warrantee,] and that he is the same person to whom the within warrant issued, and who executed the foregoing assignment, and his testimony being satisfactory evidence to me of that fact, the said [here insert the name of the warrantee] thereupon acknowledged the said assignment to be his act and deed.

(Officer's signature.)

On this _____ day of _____, in the year _____, personally appeared [here insert the name of the person to whom the certificate of location issued] to me well known, and acknowledged the foregoing assignment to be his act and deed; and I certify, that the said [here insert the name of the person to whom the certificate of location issued] is the identical person to whom the within certificate of location issued, and who executed the foregoing assignment thereof. [Officer's signature.]

On this day of , in the year , personally came before me [here insert the name of the person to whom the certificate of location issued,] and [here insert the name and residence of a witness,] and the said [here insert the name of the witness] being well known to me as a credible and disinterested person, was duly sworn by me, and on his oath declared and said that he well knows the said [here insert the name of the person to whom the certificate of location issued,] and that he is the same person to whom the within certificate of location issued, and who executed the foregoing assignment; and his testimony being satisfactory evidence to me of that fact, the said [here insert the name of the person to whom the certificate of location issued] thereupon acknowledged the said assignment to be his act and deed.

Assignment No. 1 and acknowledgment must be endorsed upon the warrant, and No. 2 and acknowledgment upon the certificate of location; and must be attested by two witnesses, acknowledged before a register or receiver of a land office, a judge of a court of record, a justice of the peace, or a commissioner of deeds resident in the State from which he derives his appointment; and in every instance where the acknowledgment is made before any officer

other than the register or receiver of a land office, it must be accompanied by a certificate, under seal of the proper authority, of the official character of the person before whom the acknowledgment was made, and also of the genuineness of his signature.

All assignments of bounty land warrants issued under the act of September 28, 1850, made before the date of this act, are invalid and void.

The same section provides, "That any person entitled to pre-emption right to any land, shall be entitled to use any such land warrant in payment of the same, at the rate of \$1 25 per acre for the quantity of land therein specified."

By this provision, all persons entitled to pre-emption, whether on offered or unoffered lands, can use a military bounty land warrant in payment for the tract pre-empted, reckoning the said warrant at \$1 25 per acre for the quantity therein specified, whether the land so claimed is at the usual or enhanced minimum.

Should the area of the tract claimed exceed the amount called for in the warrant, the pre-emptor will have to pay for the excess in cash, but if it should fall short, he is not entitled to a refunding of the excess.

It is further provided by the same section, "that the warrants which have been, or may hereafter be, issued in pursuance of said laws or of this act, may be located according to the legal subdivisions of the public lands, in one body, upon any lands of the United States subject to private entry at the time of such location, at the minimum price: *Provided, further*, That when said warrants shall be located on lands which are subject to entry at a greater minimum than \$1 25 per acre, the locator of said warrant shall pay to the United States, in cash, the difference between the value of such warrants at \$1 25 per acre, and the tract of land located on."

By these provisions, where the lands are subject to private entry at \$1 25 per acre, the holder of an eighty-acre warrant can take any two forty acre lots, forming a compact body of eighty acres; and the holder of a warrant for one hundred and sixty acres, can take two eighty-acre, or four forty-acre tracts, forming a compact body of one hundred and sixty acres.

Where the minimum price of the lands, subject to private entry, proposed to be located, is more than \$1 25 per acre, the holder of the warrant can locate, in accordance with the instructions contained in the foregoing paragraph, the quantity specified in the warrant, by paying the difference in cash.

This act does not authorize the holder of an eighty-acre warrant to locate therewith a forty-acre tract of land at \$2 50 per acre in full satisfaction thereof, but he must locate, by legal subdivisions, the compact body of eighty acres, as near as may be, and pay the difference in cash. So also of one hundred and sixty acre warrants, except in pre-emption cases, as hereinbefore stated.

Each warrant is to be distinctly and separately located, so that it follows that no *body of land* can be located by an assignee of

various warrantees, with a *number of warrants*; nor can a pre-emptor in any case use more than one warrant in the location of the land pre-empted by him, and the excess, if any, must be paid for by him in cash.

The second section of this act provides, "that the registers and receivers of the land offices shall hereafter be severally authorized to charge and receive for their services in locating all military bounty land warrants, issued since the 11th day of February, 1847, the same compensation or per centage to which they are entitled by law for sales of the public lands for cash, at the rate of \$1 25 per acre, the said compensation to be hereafter paid by the assignees or holders of such warrants.

The third section of this act provides, "that registers and receivers, whether in or out of office at the passage of this act, or their legal representatives in case of death, shall be entitled to receive from the Treasury of the United States, for services heretofore performed in locating military bounty land warrants, the same rate of compensation provided in the preceding section for services hereafter to be performed, after deducting the amount already received by such officers under the act entitled 'An act to require the holders of military land warrants to compensate the land officers of the United States for services in relation to the location of those warrants,' approved May 17, 1848: *Provided*, That no register or receiver shall receive any compensation out of the Treasury for past services who has charged and received illegal fees for the location of such warrants: *And provided further*, that no register or receiver shall receive for his services during any year a greater compensation than the maximum now allowed by law."

Where parties may desire to avail themselves of the privilege of having their warrants located through this office, as provided for by the act of 28th September, 1850, they must take the necessary steps to pay to the register and receiver the fees to which they are entitled. The same course must be observed by persons remote from the district land offices in making applications by letter to those officers. Without the payment of those fees the warrants cannot be located.

By the terms of this law the fees are as follows:

For a 40 acre warrant,	fifty cents each to register and receiver—total...	\$1 00
For an 80 " " "	one dollar " " " " "	2 00
For a 160 " " "	two dollars " " " " "	4 00

J. BUTTERFIELD, *Commissioner*.

P. S. Numerous applications having been made for authority to sell warrants and locations under Powers of Attorney, the following forms are prescribed for that purpose, which, however, must invariably be endorsed on the warrant, or they will not be recognised.

[3.]

[Form of a power of Attorney.]

Know all men by these presents, that I, [*here insert the name of Warrantee*] of the county of _____ and State of _____, do hereby constitute and appoint _____ of _____ my true and lawful attorney, for me, and in my name, to sell and convey the within land warrant No. _____ for _____ acres of land, which issued under the act of September, 1850.

Signed in presence of }

(*Warrantee's Signature.*)

The acknowledgment of this power of attorney must be taken and certified in the same manner as the acknowledgments of the sales of the warrant or certificate of location herein before prescribed, and must also be endorsed on the warrant.

J. BUTTERFIELD, *Commissioner.*

—
PENSION OFFICE, *March 27, 1852.*

The subjoined form of a declaration, to be observed by all persons applying to the Pension Office for *bounty land*, under the act of the 22d March, 1852, entitled "An act to make bounty land warrants assignable, and for other purposes," is published in connexion with the act itself.

This form is only so far variant from that prescribed under the act of 28th September, 1850, as to adapt it to the recent act of March 22d.

The *declaration* must be sworn to before some justice of the peace or other officer authorized to administer oaths for general purposes, who must certify the same.

The official character and signature of the magistrate who may administer the oath must be certified by the clerk of the proper court of record of his county, under the seal of the court.

Such certificate must accompany every case.

It will be perceived, that in the 4th section of the act of 22d March, no provision is made for widows or minor children, but only for the party who rendered the service.

The service contemplated by the act is that rendered under a call by the authorities of any State to repel apprehended hostilities from any foreign government or Indian tribe, and whose services have been paid for by the United States subsequent to the 18th June, 1812.

It should be specially noted that no one whose service was recognised by any previous act can claim under this, except where his mileage has not been allowed in the computation of his service. Hence, if the soldier has rendered such service as would entitle him to forty acres, or any other amount, under a previous law, he cannot claim an increased quantity for other services first recognised by this act.

If the applicant desires to avail himself of the fifth section of the act, he must, in his declaration, state the place at which he

was enrolled with his company, the distance thence to the point at which he was mustered into service, the place at which he was discharged, and the distance thence to the place of his original enrolment. It must also be clearly shown, by the testimony of persons certified to be credible, that his statements in these respects are true, and the witnesses should specify the manner in which they obtained their information.

J. E. HEATH,
Commissioner of Pensions.

[Form of a declaration to be made by the surviving officer or soldier.]

STATE OF } ss.
County of

On this day of , A. D. one thousand eight hundred and , personally appeared before me, a justice of the peace, [or other officer authorized to administer oaths for general purposes,] within and for said county and State aforesaid, , aged years, a resident of , in the State of , who being duly sworn, according to law, declares that he is the identical who was a in the company* commanded by captain , in the regiment of , commanded by , in the war with Great Britain, declared by the United States on the 18th day of June, 1812, [or other wars embraced in the act, declaring what war,] that he enlisted [or volunteered, or was drafted] at , about the day of , A. D. , for the term of , and was honorably discharged at , on the day of , A. D. , as will appear by his original certificate of discharge herewith presented.†

In addition to the actual service above described, he claims for miles from , at which he was enlisted, to , where he was mustered into service, and for miles from , at which he was discharged, to , the said place of his enrolment.

He makes this declaration for the purpose of obtaining the bounty land to which he may be entitled under the "act granting bounty land to certain officers and soldiers who have been engaged in the military service of the United States," passed 22d March, 1852, and that he is not entitled to, nor has received, bounty land under any other act of Congress.

[Signature of the claimant.]

Sworn to and subscribed before me the day and year above written. And I hereby certify, that I believe the said to be the identical man who served as aforesaid, and that he is of the age above stated. [Signature of the magistrate or other officer.]

[24.]

[Laws of the U. S., vol. 4, page 374.]

CHAP. 344. An act authorizing the President of the United States to accept and organize certain volunteer military corps.

APPROVED, FEBRUARY 6, 1812.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That*

* If the claimant was a regimental or staff officer, the declaration must vary according to the facts of the case.

† If the discharge has been lost or destroyed, the words in *italics* will be omitted, and the facts in relation to the loss of the discharge stated in lieu thereof. If the claimant never received a written discharge, or if discharged in consequence of disability, or if he was in captivity with the enemy, he must vary his declaration so as to set forth the facts of the case.

the President of the United States be, and he is hereby, authorized to accept of any company or companies of volunteers, either of artillery, cavalry, or infantry, who may associate and offer themselves for the service, not exceeding fifty thousand men. * *

SEC. 2. *And be it further enacted*, That any company, battalion, regiment, brigade, or division, thus offering itself for the service, shall be liable to be called upon to do military duty at any time the President of the United States shall judge proper, within two years after he shall have accepted the same; and shall be bound to continue in service for the term of twelve months after they shall have arrived at the place of rendezvous, unless sooner discharged. * * * *

SEC. 6. *And be it further enacted*, That the heirs and representatives of any non-commissioned officer or soldier, who may be killed in action, or die in the actual service of the United States, shall be entitled to receive one hundred and sixty acres of land; to be designated, surveyed, and laid off, at the public expense, in such manner, and upon such terms and conditions, as may be provided by law. * * * *

[25.]

[*Laws of the U. S., Statutes at Large, vol. 9., page 444*]

CHAP. 39. An act making appropriations for the payment of navy pensions for the year ending the thirtieth of June, one thousand eight hundred and fifty-one.

APPROVED, AUGUST 17, 1850.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the treasury not otherwise appropriated, for the pay of navy pensions for the year ending the thirtieth of June, one thousand eight hundred and fifty-one :

To pay invalid pensions, forty thousand dollars.

To pay the pensions of invalids who were wounded on board of private armed vessels during the last war with Great Britain, three thousand dollars.



INDEX.

The Index being the first thing looked at in a work of this character, we deemed it proper *here*, in order to enable all to consult *this* with the greatest profit, to give some elucidation of its arrangement, that it may attract the readiest attention; and thereby economize the time of the inquirer, as well as save him from the fruitless search he might occasionally be subjected to without such aid. Instead, then, of the simple alphabetical arrangement of '*catch words*' and *broken phrases*, that convey little or no meaning more than to enable the reader to find the subject with which such words are connected in the text of the volume, with the execution of which we had at first intended to rest content, we have, upon further reflection, concluded to give such *abstracts* of the various subjects as we judged would be more useful to the reader, in preparing himself to make a more satisfactory examination of the details they refer to. To carry out this object with as great efficacy as practicable, we have, with no inconsiderable labor, cast the whole, as nearly as may be, into a chronological, analytical, and alphabetical, arrangement, with the view of combining every benefit that could promise to result to the reader, from the *review* of such a synopsis.

In the first place it must be remarked, that, taken together, the legislative enactments, as referred to under the heads of pensions to "*invalids*," disabled *during* and *since* the revolution, to *indigents*, and to *survivors* of the revolution, and their widows and orphans respectively, and also under the head of *bounty lands* of various periods and denominations, together with the supplementary acts relating to these subjects in the first part of this volume, constitute the principal and paramount matters of the work, whilst all the other items, as contained in the "Appendix," are mere accessories to them, and may be regarded as *incidents*, only, connected with, and carrying out the *execution* of the laws providing for pensions and bounty lands. Hence, conforming to this fundamental order of *principal* and *accessory*, or *primary* and *secondary* subjects, we should present an Index of two parts—1st, an Index of the laws, or the subjects provided for in the said laws; and 2d, an Index of administrative measures, with their details of advisory opinions, decisions, instructions, and forms: and this division we have made accordingly.

To the subjects however, both of PART I. and PART II. of this Index, we have given an alphabetical arrangement, as nearly as practicable, consistently with their arrangement in classes, and according to the chronological order of their legislative enactment, or their administrative expounding and execution. Passing by the miscellaneous items, which are referred to in the simple alphabetical order, we have combined the chronological and alphabetical arrangement of the principal subjects, in *classes*, according to their respective denominations, as follows, viz:

I. OF HALF PAY PENSIONERS.—The "*half pay*" for life, or its "*commutation*" to *full pay* for seven years, to certain officers of the revolution, and extended to their widows and orphans under certain circumstances, constitute a very different kind and class of pensions from those of *invalids*, or of widows and orphans as heirs and representatives of deceased invalid pensioners, or of persons killed, or who died of wounds or casualties

happening to them in the line of their duty. This class of pensioners, always very limited, fall into a very simple arrangement. Remarks upon them, as gratuities, may be seen in the Introduction--where also the pensions to indigents and other survivors of the revolution, and to widows and orphans, are considered as gratuities in contradistinction from invalid pensions.

II. OF INVALID PENSIONERS.—The manner of making legal provision for invalids of the *military* and *naval* service during the revolution, appears to have been too much *blended* to admit of any discrimination in the classification of *them*; for they all come under the general denomination of invalids disabled during the revolutionary war, of whom *lists* were furnished from time to time, by the State authorities, under the request of Congress. From those lists, however, and other official evidences, the pensioners of the naval service formed a very small proportion to those of the military establishment. But the provisions for invalids in either branch of the service *since* the revolution, have been somewhat more distinct, which has enabled us, accordingly, to arrange them under two distinct divisions--thereby making three divisions of invalid pensioners--*one* of invalids disabled during the revolution, *military* and *naval* combined; and *two* of invalids disabled *since* the revolution, *military* and *naval*, arranged under separate heads.

III. OF PENSIONS TO INDIGENTS, AND OTHER SURVIVING SOLDIERS AND SEAMEN OF THE REVOLUTION.--We have also arranged the two anomalous classes of revolutionary pensioners, provided for at comparatively recent dates, immediately after the third class of "invalids." Of these, the *first* comprises the "*indigents*" of the army and navy of the revolution, provided for by the act of the 18th March, 1818, at a small advance of pension over *half pay*, to continue *for life* or during their indigence; and the *second* comprises other surviving worthies of the revolution, provided for at *full pay for life*, under the act of the 15th May, 1828, its supplement of the 7th June, 1832, and other supplementary acts.

IV. OF PENSIONS TO WIDOWS, OR LEGAL REPRESENTATIVES.—The same indiscriminateness observed in regard to the legislative provisions for *revolutionary invalids* in the two branches of the service, applies, perhaps even to a greater degree, to those for the *widows* and *orphans* of officers and others of the army and navy of the same period, if, indeed, there was any made for the widows and orphans of the latter, at all, during that period, of which there is no evidence extant that has come under our observation; and those made for the widows and orphans of the military officers, were not made for them as representatives of invalids, or of officers slain, but of officers to whom seven years' half pay was promised, if they continued in the army to the end of the war; but who, having died during the war, could not execute their contract, and claim their seven years' half pay. But of this provision for *military* officers who performed that condition, and for the widows and orphans of those who were prevented by death from doing so, there most probably was a parallel provision for naval officers, and their widows and orphans under like circumstances, (or ought yet to be,) though the fact does not appear. Nay, the request of the resolution of the 24th August, 1780, that the legislatures of the several States would make provision for paying the widows and orphans of those military officers, strongly indicate that the widows and orphans of *naval* officers, under like circumstances, were provided for in like manner. Our arrangement, therefore, could only dispose of the legal provisions for widows and orphans under the following heads, viz: 1. Of widows and orphans of *military* officers of the revolutionary war entitled to "seven years' half pay" or "commutation." 2. Widows and orphans of *military* officers and soldiers *since* the revolution; together with those of off-

cers, (*military* and *naval*), soldiers, seamen, and marines, of the revolution, who were provided for by the acts concerning "indigents," and other "survivors" of that war; for the latter of whom the legal provisions being too much blended, in many instances, with those for widows and orphans of officers and others *since* the revolution, to admit of a separate arrangement, have been permitted to go *with them*, but are distinguished by asterisks, thus [*.] 3. Those provisions for widows and orphans of invalids, and persons slain in the naval service, and privateer service, *since* the revolution, have received a distinct arrangement.

V. OF BOUNTY LANDS.—In relation to the legislative provisions for granting military bounty lands, the like *blending*, as of those for invalids and for widows and orphans already adverted to, have left us no alternative but to retain the continuous order of time in which they were made, and, in lieu of any change of that arrangement, to refer to the classification of them given in the "Introduction" pages 28, 29, 30, and the "policy of land bounties generally," as there represented. And the contrast thus exhibited, shows the practicability of discriminating between subjects having an essential difference of character, notwithstanding the confusion occasioned by legislative commingling of their parts, which, in another sense, are necessarily left to abide in that commingled State.

Finally, we do not recommend an implicit reliance on the expounding of the laws by the abstracts of this index, or on any other expounding of them, more than to aid the reader in expounding for himself, and taking appeals, when he thinks he has not had his right. Indeed, the expounding of the laws by the opinions and decisions, as shown in Part II, of this index, frequently calls for comparisons of the same with the laws themselves, as pointed out in Part I, by turning from the items in the one to the like items in the other—particularly as these expoundings may, nay do, sometimes contravene the laws, and traverse themselves—which may also be seen by turning from one opinion and decision to another.

PART I.

A.

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BOUNTY LANDS.

[The legislative provisions for granting "military bounty lands," are here referred to in the chronological order of their enactment, waiving all attempt at any classification of them in this place, having given our views fully on that subject in the Introduction.]

- Bounty Land, Congress promised to make provision for granting bounty lands, in certain proportions, to officers and soldiers who should engage in the revolutionary service, and continue to the end of the war, or until discharged, to enure to the representatives of such as might be slain—Resolution 16th September, 1776..... 281 1
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- said land bounty is extended to general officers in certain proportions—Resolution 12th August, 1780..... 282 3
- said land bounty is extended to officers of the medical department in certain proportions—Resolution 29th September, 1780..... 282 4
- said land bounty is extended to supernumerary officers (on the reduction of the army) agreeably to the resolution of the 16th September, 1776—Resolution 3d October, 1780..... 282 5
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- the Secretary of War is authorized to issue military bounty land warrants, under certain regulations—Act 15th April, 1806..... 285 8
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- each non-commissioned officer or soldier discharged from service, with certificate from commanding officer, to be allowed one hundred and sixty acres of land—Act for completing the existing military establishment, 24th December, 1811..... 287 11
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the time allowed in the aforesaid act of May 6th, for mak- ing applications for said bounty lands, is extended to 1st May, 1820, in behalf of heirs and representatives of deceased persons entitled thereto—Act 27th Mar. 1818.	646	7
each effective "able-bodied man" enlisted in different military corps, to serve <i>five years</i> after the 1st February, 1813, allowed one hundred and sixty acres—Act 20th January, 1813.	290	14
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is allowed to corps of infantry raised for the protection of the seaboard, on the same footing with other regular troops enlisted for <i>five years</i> , or during the war of 1812 Act 5th July, 1813.	314	2
men enlisted (<i>under this act</i>) for <i>five years</i> , or during the war, entitled to the same quantity of land (<i>one hun- dred and sixty acres</i>) as the regular troops of the Uni- ted States—Act 28th January, 1814.	97	53
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* This is the substance of a *proviso* found ensigned in what is familiarly called the omnibus bill "making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending the 30th June, 1852, and for other purposes," as a rider on the appropriation "for the surveys of public lands." It is not probable that it has struck the attention of many, though a very potent little proviso; for, under the restriction it imposes, the vast amount of warrants which have been and must continue to be issued under the act of September, 1850, can never be located, for want of a sufficient quantity of the public domain which has already been offered at public sale.—*EDITOR.*

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the same was "commuted" to five years' full pay, at the option of the officers, (for which see "commutation")—Resolution 22d March, 1783	9	12
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1. *Invalid Pensioners, both Military and Naval, disabled in the Revolutionary War.*

[Officers, commissioned and non-commissioned, of the army and navy, musicians, soldiers, marines, and seamen, disabled in the service, including militia and volunteers, as well as those who, after disability incurred, resigned their commissions, took discharges, or were taken captive by the enemy, and so remained, or on parole, to the end of the war, (except those receiving commutation, and those who deserted the service,) shall be entitled to pensions during life, or the continuance of their disability—all arrears of pensions due to invalids at their death to be paid to their widows, orphans, or legal representatives.]

INVALIDS, MILITARY AND NAVAL.

Congress recommends to State Legislatures to provide for invalids of the military and naval service, within their jurisdiction, and to appoint persons to examine testimony and report lists of invalids at the charge of the United States—Resolution 20th August, 1776.....	1	1
Commissioned and non commissioned officers of the army and navy, also soldiers, seamen, and marines, who may lose a limb, or be otherwise disabled in the line of their duty, to receive a pension adequate to their support, not to exceed their half pay as officers, soldiers, or seamen—Resolution 26th August, 1776.....	1	1
Relief is extended to officers and non-commissioned officers of the army any navy, and to soldiers, seamen, and marines, who had, anterior to the resolve of the 26th August, 1776, lost a limb, or been otherwise disabled, such as that granted by said resolution—Resolution 25th September, 1778.....	4	3
Five dollars per month allowed to sick and wounded of the army unfit for further duty, to be provided for by the States at the charge of the United States—Resolution 23d April, 1782.....	8	11
Congress recommended to the States to provide for invalids of the army and navy, resident in the States respectively. List to be made out. Certificate necessary. Pensions to disabled officers equal to half pay, and ratable allowance to non-commissioned officers and privates. Each State to appoint persons to examine claimants. Each State authorized to pay. Any State may form invalid corps. Quarterly returns of invalid corps. Invalids to take an oath. Magistrates to send affidavits—Resolution 7th June, 1785.....	11	15
Each State shall have credit with the United States for invalid pensions—Resolution 11th June, 1788.....	14	20
The invalid pensioners of the several States provided for under the aforesaid resolutions, are assumed as pensioners of the United States, and to be continued from the 1st March, 1789, for one year, to be paid under regulations to be prescribed by the President—Act 29th September, 1789.....	15	1
The aforesaid pensioners of the several States are continued for one year, and to be paid under regulations to be prescribed by the President—Act 16th July, 1790.....	17	3
The same, as aforesaid, are continued for a further term of one year, and under the same regulations—Act 3d March, 1791.....	21	6
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INVALIDS, MILITARY AND NAVAL (*Continued.*)

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For the discharge of arrears of pensions due to officers and soldiers disabled in the Revolution, and now on the books in the office of the Secretary of the Department of War, or to be so placed in conformity to law, such pensioners shall receive from the Register of the Treasury "a certificate,"* to be settled under direction of the Secretary of the Treasury, for the amount of pension due, or to become due, to the 4th March, 1789, from which time the United States have assumed the payment of the pensions certified by the several States; and in case of death of any person so entitled, the "certificate" shall pass to his heirs or legal representatives; and the widows or orphans of officers, &c., killed while in the service, who are now on the books of the War Department as entitled to a pension, and for whom provision has not been made, shall receive a "certificate" therefor in like manner as the officers, &c., who were wounded or disabled as aforesaid--Act 11th August, 1790.....	19	5
The pensions to invalids disabled during the Revolutionary war are confirmed for life or during disability, to be allowed and paid under specific regulations of evidence prescribed by this act, with instructions to circuit judges to transmit lists of claimants to be laid before Congress--Act 23d March, 1792.....	22	9
The aforesaid act of March 23, 1792, is repealed, and substituted as to regulations of evidence and instructions to district judges to transmit lists of claimants to be laid before Congress--Act 28th February, 1793.....	26	12
List of claimants transmitted by district judges pursuant to the above act of 28th February, 1793, directed to be put on the pension roll at fixed rates of pension--Act 7th June, 1794.....	30	16
List of claimants transmitted by circuit judges under act of 23d March, 1792, with defective testimony, returned to district judges for publication and completion of testimony--Resolution 9th June, 1794.....	31	17
Pensions under act of 28th February, 1793, ordered to commence from the completion of testimony--Act 21st February, 1795.....	31	18
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List of claimants transmitted by district judges under act of 28th February, 1793, ordered to be put on the pension roll at fixed rates--Act 20th April, 1796.....	34	22
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New rules and regulations for substantiating army and revolutionary pension claims, and repealing those of the act of 28th February, 1793, but the same rates of pension observed--Act 3d March, 1803.....	45	31
South Carolina invalid pensioners provided for under resolves of the old Congress, assumed as pensioners of the United States--Act 3d March, 1804.....	47	32
Pensions, as above, (3d March, 1803,) extended to those who, after disability in the service, resigned and took discharges, or were taken prisoners, and so remained, or on parole, to the end of the war--Act 3d March, 1805.....	48	33
Act of 10th April, 1806, repeals all former laws conferring pensions on invalids of the Revolution, military and naval, and makes new provisions, rules, and regulations, for those pensions, and increase of the same, to commence from the completion of the testimony, with instruc-		

* To understand the full meaning and intent of these "certificates," it would be necessary to peruse with care the entire act of the 11th of August, 1790, (passed only seven days previous to the above,) "making provision for the debt of the United States," the preamble of which is as follows: "Whereas, justice and the support of public credit require that provision should be made for fulfilling the engagements of the United States in respect to their foreign debt, and for funding their domestic debt upon equitable and satisfactory terms." The act then goes on at considerable length, in twenty two sections, with explanatory preambles to the provisions for each class of such debts or obligations due and assumed, for a statement of which see the "Introduction" and the original act itself.

INVALIDS, MILITARY AND NAVAL (*Continued.*)

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tions to district judges to transmit list of claimants to be reported to Congress. <i>This act, first limited to six years, has continued in force ever since, by revivals from time to time; and the last revival (24th May, 1828, page 144) continues it until the 24th May, 1834--</i>	49	35
Act 10th April, 1806.....		
List of claimants transmitted by district judges pursuant to the above act of 10th April, 1806, ordered to be put on the pension roll at specific rates--Act 3d March, 1807.....	53	36
List of claimants transmitted as above, and all other pensioners (sec. 3) remaining on the rolls of any of the States, ordered to be placed on the pension roll of the United States--Act 25th April, 1808.....	58	38
List of claimants transmitted as above, are put on the roll--Act 3d March, 1809.....	65	40
List of claimants transmitted as above, are put on the roll--Act 27th April, 1810.....	72	41
List of claimants transmitted as above, are put on the roll--Act 3d March, 1811.....	78	42
List of claimants transmitted as above, are put on the roll--Act 5th July, 1812.....	85	49
List of claimants transmitted as above, are put on the roll--Act 2d August, 1813.....	93	51
List of claimants transmitted as above, and put on the roll, and a new rule established (sec. 3) for authenticating depositions--Act 18th April, 1814.....	97	54
List of claimants transmitted as above, and put on the roll--Act 3d March, 1815.....	100	56
New and increased <i>rates of pensions</i> established from that time, to all invalids (revolutionary, or since the Revolution) <i>now</i> on the roll, or may <i>hereafter</i> be placed on the roll--Act 24th April, 1816.....	106	59
List of claimants transmitted as before, and put on the roll--Act 30th April, 1816.....	107	61
List of claimants transmitted as above, and put on the roll--Act 3d March, 1817.....	113	62
List of claimants transmitted as above, and put on the roll, but future reports of such lists to Congress, by the Secretary of War, dispensed with, (sec. 4,) he being authorized to put them on the roll without such report--Act 3d March, 1819.....	124	73
The act of the 3d March, 1819, (chap. 491,) establishes new <i>rules</i> and <i>forms</i> for ascertaining disabilities in all cases of application for pensions for invalids, (revolutionary, or since the Revolution,) withholding the benefits thereof from those revolutionary pensioners who shall avail themselves of the benefits of the act of the 18th March, 1818, on account of indigence; which <i>rules</i> and <i>forms</i> are to be complied with periodically--Act 3d March, 1819.....	122	70
Pensions, or <i>arrears</i> of pensions, accruing under the last above mentioned act of 3d March, 1819, are directed, in case of death of such pensioners, to be paid to their widows, children, or legal representatives--Act 2d March, 1829,* sec. 1.....	146	99

* This act of 2d March, 1829, sec. 3, says, that in all applications for pensions for wounds received in the Revolutionary war, the testimony may be authenticated in the same manner as in applications for wounds received in the late war (of 1812) with Great Britain; while the different acts conferring pensions for wounds in the late war (of 1812) require that the claims be substantiated by the rules of the act of 10th April, 1806. On the other hand, the act of 16th April, 1816, making further provisions for military services during the late war (of 1812) requires certain applications for pensions to be substantiated by rules to be prescribed by the President, but not to interfere with those pensions embraced in the act of 2d August, 1813; while the act of August refers the claimants, it embraces, to the rules and regulations of the same act, of 10th April, 1806, to substantiate their claims.

INVALIDS, MILITARY AND NAVAL (*Continued.*)

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2. *Military Invalid Pensioners, disabled since the Revolution.*

[Officers, commissioned and non-commissioned, privates and musicians of the army, including militia, rangers, sea-fencibles, and volunteers, disabled in the service of the United States *since* the Revolutionary war, are entitled to pensions during life, or the continuance of their disability, under the various acts hereinafter described; the details of which will be seen in the acts referred to.]

The first act after the war for regulating the military establishment of the United States, (passed on the 30th April, 1790, ordering the enlistment of "able-bodied men,") provides and promises (sec. 11) that if any commissioned or non-commissioned officer, musician, or private, shall be wounded or disabled while in the line of his duty, he shall be placed on the list of invalids of the United States, at such <i>rates</i> of pay, and under such <i>regulations</i> , as shall be directed by the President for the time being, not to exceed for the highest disability half the monthly pay at the time of the wound, for commissioned officers, and never to exceed five dollars a month for non-commissioned officers, privates, and musicians; and for inferior disabilities, sums proportioned to those for the highest disability—Act 30th April, 1790.....	15	2
The aforesaid provisions for pensions, under the same regulations, (by the President,) promised to certain regiments to be raised—Act 5th March, 1792, sec. 11.....	22	8
Aforesaid provisions for invalid pensions, under the same regulations (by the President) continued, with the military establishment—Act 3d March, 1795.....	32	19
Aforesaid provisions for invalid pensions, under the same regulations (by the President) are extended to militia called out, and to volunteers—Act 23d March, 1796.....	33	20
Aforesaid provisions for invalid pensions, under the same regulations (by the President) extended to the military establishment as ascertained and fixed—Act 30th May, 1796.....	40	23
Aforesaid provisions for invalid pensions, under the same regulations (by the President) extended to the provisional army authorized—Act 28th May, 1798.....	43	28
Aforesaid provisions for invalid pensions, under the same regulations (by the President) extended to the augmentation of the army authorized—Act 2d March, 1799.....	44	29
Aforesaid provisions for invalid pensions, under the same regulations (by the President) extended to the military peace establishment as fixed—Act 16th March, 1802.....	44	30
Aforesaid provisions for invalid pensions, under the same regulations (by the President) extended to the additional military force, including cadets, ordered—Act 12th April, 1808.....	57	37
Act of the 25th April, 1808, authorizes officers, non-commissioned officers, musicians, and privates, of the regular army, militia and volunteer corps, who have been disabled <i>since</i> the revolution, to be placed on the pension roll, at the <i>rates</i> , and under the <i>regulations</i> , prescribed by the act of the 10th April, 1806 for invalids disabled during the revolution—Act 25th April, 1808.....	58	38
Provisions for invalid pensions, under rules and regulations that <i>are</i> , or may be, established by law, extended to companies of rangers authorized—Act 2d January, 1812.....	81	43
Provisions for invalid pensions, under rules and regulations that <i>are</i> , or may be, established by law, extended to the additional military force, including cadets, authorized—Act 11th January, 1812.....	81	44
Provisions for invalid pensions, under rules and regulations that <i>are</i> , or may be, established by law, extended to certain volunteer corps authorized—Act 6th February, 1812.....	82	45
All invalids who were disabled in the campaign on the Wabash, directed to be placed on the pension roll, at rates to be prescribed by the President, and under <i>rules</i> of evidence to be dictated by the Secretary of War—Act 10th April, 1812.....	83	47

INVALIDS, MILITARY AND NAVAL (*Continued.*)

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Provisions for invalid pensions, under rules and regulations that <i>are</i> , or may be, established by law, extended to the additional military force authorized—Act 29th January, 1813.....	92	50
Invalids of the corps of infantry raised as an additional military force for the defence of the seaboard by the act of January 29th, 1813, being "placed on the same footing as the regular troops," are allowed <i>pensions</i> and other benefits in like manner—Act 5th July, 1813.....	314	2
Invalids of the corps of sea-fencibles, authorized by this act, to serve on land or water, are allowed <i>pensions</i> , in some respects as officers, &c., disabled in the naval service, and in other respects as those disabled in the military service—Act 26th July, 1813.....	315	3
Act of the 2d August, 1813, grants pensions, under the rules and regulations of the act of 10th April, 1806, to the militia and volunteers who may be <i>disabled</i> in the service thereafter—Act 2d August, 1813.....	95	52
Act of the 28th January, 1814, grants pensions to certain regiments authorized for <i>five</i> years by said act, under the rules and regulations of those <i>disabled</i> in the regular army—Act 28th January, 1814.....	97	53
Act of 3d March, 1815, directs the pension provisions, with the regulations from the President, for the peace establishment of the 16th March, 1802, to be adopted for the peace establishment of 1815,* as fixed by said act—Act 3d March, 1815.....	99	55
Act of the 16th April, 1816, directs the officers and soldiers of the militia, including rangers, sea fencibles, and volunteers, <i>disabled</i> during the late war, to be placed on the pension roll in the same manner as those of the regular army, under rules of evidence to be prescribed by the President, with a provision that these shall not interfere with those of the 2d August, 1813—Act 16th April, 1816.....	103	58
All invalids (revolutionary, or <i>since</i> the Revolution, military or naval) <i>now</i> on the pension roll of the United States, or may <i>hereafter</i> be placed on the roll, to receive in lieu of what they are now entitled to, certain increased rates, as follows: 1st lieutenants, \$17; 2d lieutenants, \$15; engineers, \$13; non-commissioned officers, musicians, and privates, \$8; the same being applicable to officers and soldiers of the militia and volunteers in the service of the United States, as well as the regular army; but the said rates <i>not</i> to diminish the pension of any person now entitled to a higher rate by special provision of law—Act 21th April, 1816.....	106	59
Act of the 3d March, 1819, establishes <i>rules</i> and <i>forms</i> for ascertaining disabilities in <i>all cases</i> of application for pensions to invalids, (<i>revolutionary or since the revolution</i> ,) withholding the benefits thereof from those revolutionary pensioners who shall avail themselves of the benefits of the act of 18th March, 1818, on account of indigence; which <i>rules</i> and <i>forms</i> are to be complied with every two years—Act 3d March, 1819.....	122	70
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† The act of the 30th May, 1830, section 5, set apart 200,000 acres, and section 6, an additional 50,000 acres. The 1st section of this act authorized the officers and soldiers, sailors and marines, who were in the service of Virginia in her own State establishment, to surrender to the Secretary of the Treasury (who then executed the laws for the payment of those claims) such of their warrants for military land bounty as remained unsatisfied, and to receive certificates of scrip for the same, &c. The latest act on this subject is that of 30th July, 1850, "further to extend the time for locating Virginia military land warrants, and returning surveys thereon to the General Land Office."

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Half-pay for five years (bounty land being relinquished in the cases specified) is extended to the widows and orphans of officers and soldiers of the militia, rangers, sea-fencibles, and volunteers; also of the non commissioned officers, musicians, and privates, enlisted for one year or eighteen months, and of commissioned officers of the regular army, who died or were killed in the late war of 1812—Act 16th April, 1816.....	103	58
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Pensions allowed to certain widows and orphans at the rate of \$4 a month, on relinquishing their title to bounty land under the act of 16th April, 1816, are further restricted—Act 3d March, 1819.....	123	72
Widows or orphans, or legal representatives of revolutionary pensioners who have died leaving arrears of pension due, are entitled to receive the same, (see Arrears)—Act 2d March, 1829.....	146	99
Widows and orphans of certain revolutionary and other pensioners mentioned, will be entitled to receive any arrears of pension that may be due on their demise, of those pensions (for other cases see Arrears)—Act 20th May, 1830.....	148	104
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Navy invalid pensions may, on recommendation, be ordered to commence at an earlier date than when first allowed—Opinion 21st December, 1832..... 373 37

Navy invalid pensions granted before the passage of the act of the 3d March, 1827, according to the rates of disability, are required by the 2d section of that act to commence from the date of their disability, but are not entitled to be increased under that section—Opinion 10th November, 1837..... 611 67

Navy invalid pensions granted to an invalid before the passage of the act of 3d March, 1837, for less than complete disability, must prove the existence of a greater disability before his pension can be increased under the 2d section of that act. [This completes Opinion 67 in the case of Commodore Jones]—Opinion 21st November, 1837..... 412 69

Invalids of the navy disabled previous to the passage of the act of 23d April, 1800, which established the navy pension fund, are not entitled to its benefits—Opinion 3d September, 1838..... 414 72

Invalid Navy Pensioner. Pension is granted or continued to him after becoming a civil officer, and paid out of the navy pension fund—Opinion 26th May, 1842..... 423 82

Invalid navy pensions authorized to commence under the 2d section of the act of 3d March, 1837, cannot now be allowed under that section, the act having been repealed by act 23d August, 1842—Opinion 15th April, 1844..... 431 89

Invalids of the Navy. A lieutenant otherwise entitled to a pension, is not entitled to receive it whilst on duty and in receipt of his pay as an officer of the navy. "Nor can he receive it when not on duty, whilst in receipt of the pay allowed to his grade"—Opinion 24th May, 1847... 444 98

Invalids of the Navy receiving regular pay. The Attorney General reconsiders his opinion of the 24th ultimo, and advises that no officer can receive at the same time pay as an officer on duty and as a pensioner. That officers who may be waiting orders, or on leave or furlough, can receive on account of their pensions only so much as, when added to their pay when on leave, &c., will amount to the pay of their grade when on duty—Opinion 2d June, 1847..... 445 99

* This is a mistake; the fund was established by the act of 2d March, 1799. See "Funds," p. 704, and elsewhere.—EDITORS.

INVALIDS, NAVAL, MARINE, &c. (*Continued.*)

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Invalids of the Navy, and Marines. The act of July 10, 1832, transferred to the Secretary of the Navy all the powers theretofore possessed by the commissioners of the navy pension fund to make regulations for the admission of persons upon the roll of navy pensioners, and for the payment of such pensions. "It therefore rests in the sound discretion of the Secretary of the Navy to decide, according to the regulations in force, when the pension of an applicant shall commence. If it has been the settled rule of the department that pensions shall commence at the time of completing the proofs, it will be very difficult now to depart from it"—Opinion 27th September, 1848..... 457 106

Invalids of the Marine Corps. The joint resolution of Congress, passed 10th August, 1848, placed the officers of the marine corps, who served with the army in the war with Mexico, on an equal footing with the officers of the army with whom they served. "The phrase 'other remuneration,' employed in said resolution, must be understood to refer to pensions. It was the intention of Congress to remove any distinction in respect to pensions between men in the same relative position, who have been disabled by the loss of their limbs whilst fighting side by side in the same service"—Opinion 21st November, 1848..... 461 108

Invalids of the Marine. The rule of the Pension Office, that an application for a pension cannot be entertained after the lapse of twenty-five years from the time when the disability was incurred, is unauthorized by law, and therefore invalid. "The power conferred upon the Secretary of the Navy to establish rules and regulations for the examination and adjudication of claims for admission upon the roll, does not authorize the enactment of a statute of limitations"—Opinion 16th February, 1849..... 462 110

Invalid navy pensions to commence from completing the proof of disability. The commissioners of the navy pension fund were authorized and directed to make such rules and regulations as should appear to them expedient for the admission of persons on the roll of navy pensioners, and for the payment of such pensions; and they having provided that pensions are to commence from the time of completing the proofs, and the same having been continued since their powers were transferred and devolved upon the Secretary of the Navy, the practice should be adhered to. "It may be doubtful whether the provisions of the 2d section of the act of 4th February, 1822, though general, are not to be confined to cases of claims for revolutionary pensions"—Opinion 14th July, 1849..... 463 111

L.

LAWS, REPEAL OF.

A virtual or implicative repeal of a law is only permitted where there is a repugnance between the later act and the antecedent act, in which case the former is thereby virtually repealed, (see "Repeal")—Opinion 17th November, 1828..... 356 24

LEGAL REPRESENTATIVES.

Of a widow, entitled to the arrears of a pension due to her husband at his death, if she dies intestate and without claiming those arrears; if no widow, the surviving children are entitled, as also the representatives of any deceased children, respectively: And if the deceased pensioner leave neither widow nor children, then his legal representatives are entitled to the arrears, (see "Arrears" for like cases)—Opinion 28th February, 1834..... 378 42

LINE OF DUTY.

In the military service. The first clause of the 14th section of the act of Congress of March 16, 1802, in reference to invalid pensioners, considered. In what other way than by wounds must the disability have been incurred to entitle the applicant to the pension; various modes stated; as the act of God in a stroke of the sun; unavoidable casualties occur-

LINE OF DUTY (*Continued.*)

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ring in the line of duty. Every officer, in full commission, and not on furlough, considered in line of duty, although at the moment not employed; the same of a soldier who is kept in pay; some qualifications and exceptions. If loss of health is produced by careless, irregular, or vicious habits, or if the constitution is impaired, or germ of disease is seated at the time of entering the service, then there is cause for extreme caution, or an entire exclusion from the pension; various illustrations—Opinion 6th April, 1815..... 328 2

M.

MARINE INVALIDS.

See "Invalids, Naval, Privateer, Marine," &c.

MILITARY INVALIDS.

(See "Invalids Military,") disabled in the line of their duty (see "Line of Duty") and not by their own misconduct, are entitled to pension—Opinion 20th December, 1833..... 377 41

MILITARY PAYMASTER.

May receive both pay and pension. "An officer who, having lost a limb in the war of 1812, was mustered out of the service upon a captain's pension, and afterwards appointed battalion paymaster, may be regarded as having been appointed to the civil branch of the service within the meaning of the act of 30th April, 1844, and entitled to receive both his pension and his pay. The phrase 'civil branch of the service,' employed in the act of 1844, commented on and explained"—Opinion 1st November, 1848..... 458 107

MINORS.

Must be under 16 years of age at the death of their father, to entitle them to bounty land or pension as his representatives—Opinion 24th December, 1816..... 332 6

N.

NAVY INVALIDS.

See "Invalids, Naval, Marine, Privateer," &c.

NAVY PENSION FUND.

The powers and jurisdiction of the commissioners* of that fund do not exceed the period when that fund was established, viz: the passage of the act 2d March, 1800—Opinion 17th April, 1821..... 343 18

Persons disabled previous to the passage of the act of the 23d April, 1800, "establishing the Navy Pension Fund," are not entitled to its benefits†—Opinion 3d September, 1838..... 414 72

NAVY AND PRIVATEER PENSIONS.

To widows and orphans of officers and seamen who died in the line of their duty under various circumstances: their title thereto under sundry acts, (see "Widows and Orphans")—Opinion 31st March, 1825.... 347 22

OPINIONS OF ATTORNEYS GENERAL.

Advisory only. Although the acts prescribing the duties of Attorneys General do not declare the effect of their advice, it has been the practice of the departments to heed it. It has been found greatly advantageous, if not absolutely necessary, to have uniformity of action upon analogous questions and cases; and that result is more likely to be attained under the guidance of a single department constituted for the purpose, than by a disregard of its opinions and advice. Acts of Congress granting relief in special cases, and referring claims to the Second Auditor, confer upon him a jurisdiction exclusive of any other department; and when an Auditor settles such accounts, his successors are bound by his decisions—Opinion 8th May, 1849..... 665 8

* The same commissioners were entrusted with this fund when first established by the act of 2d March, 1799, and with the same powers.—EDITORS.

† Here is a repetition of the error just noticed, after an interval of 17 years, when, by an unaccountable inadvertence, it first fastened on the wary mind of Mr. Wirt; and probably the consequence has been, that none of those claimants have ever received any thing from that fund (or from the treasury pledged for any deficiency) anterior to 1800—which was but a short period, certainly; but those who have been cut off by this oversight, have a hard case of it, even if their legal representatives should yet be indemnified.—EDITORS.

REVOLUTIONARY PENSIONS, MILITARY.

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A surgeon who belonged to the army of the revolution, cannot receive a pension higher than that of a captain of infantry, under the acts of 15th May, 1828, and 7th June, 1832—Opinion 19th December, 1831.... 381 45

S.

SCRIP.

As substitute for Virginia military bounty land warrants, assignment of, (for which see "Assignments" or "Attorney, power of")..... 658 4

As a substitute for bounty land warrants, under the act of 11th February, 1847. Discharged soldiers who have once elected to take treasury scrip instead of bounty lands, and have obtained the requisite certificate from the Commissioner of Pensions, cannot afterwards be permitted to surrender such scrip and obtain a warrant for lands instead. "The act of 11th February, 1847, gives to the soldier but one election; and when that is made known, it becomes the duty of the department to conform to it by issuing the evidence of the claim, which completes the proceeding"—Opinion 30th October, 1847..... 452 101

The right to, as a substitute for bounty land warrants under the act of 11th February, 1847, cannot be devised by will, but the right enures to the families or relatives of the deceased, according to certain rules of seniority; and the same restrictions apply to the right to bounty land warrants—Opinion 28th June, 1850..... 472 115

SEAMEN.

Any person borne on the ship's books as one of the crew, and is subject to martial law, is therefore a seaman, and entitled to the benefits of the pensions laws—Opinion 18th November, 1837..... 412 68

SUBSTITUTE.

In the military service, desertion of, leaves the right to bounty land with the soldier who employed him (see "Bounty Land, a soldier's title to")—Opinion 4th November, 1831..... 365 29

T.

TREASURY SCRIP.

As a substitute for military bounty land (for which see "Scrip" and "Bounty Land.")

V.

VESTED RIGHTS.

To bounty land cannot be impaired by Congress—Opinion 17th June, 1815..... 331 4

VIRGINIA REVOLUTIONARY INVALID PENSIONS.

Although invalid pensions have been required by some pension laws and opinions of Attorneys General, and by partial usage of the office based thereon, to commence from the completion of the evidence, some acts authorize them to commence from the date of disability, or from the time the invalid's pay ceased; which latter principle this opinion declares ought to be adopted by Congress as the uniform principle of justice to all invalids disabled during and since the revolution. *The quotations and references here show a remarkable inconsistency in the provisions of law, and an unsettled practice of the department, not without their parallel in other respects*—Opinion 31st March, 1836.. 385 48

* The "act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th June, 1851," approved the 3d March, 1849, made an appropriation of \$300,000 for the redemption of the "Treasury scrip" theretofore issued for the satisfaction of the bounties in land promised to the non-commissioned officers, musicians, and privates, by the 9th section of the act of the 11th February, 1847, and for the satisfaction of such bounties, as those to whom they are due may elect to receive in money instead of land. And the said act further requires the Secretary of the Treasury to give public notice that the principal and interest of the scrip issued prior to the 1st July, 1849, will be paid on that day; and the Secretary is further directed not to issue any more scrip, but to pay the said bounties in money, when the persons entitled to bounty land shall elect to receive money in lieu of land.—EDITORS.

VIRGINIA LINE AND NAVY.

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Half pay of officers of the. In those cases of vested rights, by the gratuity of law, executors and administrators, if duly constituted, are entitled to collect the same as debts due to their testators or intestates, without proving that there are heirs or creditors, but subject to their liabilities to such creditors and heirs, if there be any; and, if there be none, then subject to the other consequences of the local laws applicable to such cases. Contests between executors and administrators, in such cases, would be determined by the superior authority from which either derived his appointment—Opinion 24th October, 1836.....

402 54

VIRGINIA MILITARY BOUNTY LAND AND SCRIP.

Assignments of, (for which see "Attorney, Powers of").....

658 4

VIRGINIA REVOLUTIONARY PENSIONS.

The views of the Secretary of the Treasury, in relation to Virginia revolutionary pension claims under the act of July 5, 1832, [133] ante, p. 164, are concurred in by the Attorney General; (but neither the *opinion*, nor the note of the Commissioner of Pensions referred to him by the acting Secretary of War, state the question at issue)—Opinion 10th September, 1838.....

414 73

VIRGINIA LINE AND NAVY PENSIONS.

How affected by act of March 3, 1845. "The fourth section of the act of 3d of March, 1845, providing that accounts adjusted by the accounting officers of the treasury shall not be re-opened without authority of law, and that no account shall be acted upon at the treasury unless presented within six years from the date of the claim, does not affect applications under a general law for pensions. Pensions are gratuities, and are not claims or accounts, within the meaning of the statute; yet when these are once placed on the pension roll, they become claims to semi-annual payments, which, if not asserted within six years, cannot be audited without the authority of Congress. The act does not affect claims for half pay to officers of the Virginia State line, provided for by the act of the 5th of July, 1832"—Opinion 22d April, 1845.....

434 93

The acts of Congress of 3d March, 1835, and 12th August, 1848, are legislative interpretations of the act of 5th July, 1832; and it was the purpose of the third section of the act of 1832 to provide for Virginia commutation claims for full pay, as well as for those for half pay for life. Those legislative interpretations and opinions are binding on the Executive, and require the allowance of the present claim—Opinion 27th March, 1849.....

663 7

W.

WARRANTS FOR BOUNTY LAND.

A second warrant issued by inadvertence, and located after one had been issued for the same land, but not located, shall not exclude the right of the first warrantee to locate elsewhere—Opinion 22d March, 1815....

327 1

Obtained by *fraud*, to be cancelled in such a manner as to incapacitate it for circulation, without rendering it illegible, and to be returned to the party presenting; his redress being in the courts of justice—Opinion 26th December, 1819.....

335 9

WIDOWS' AND ORPHANS' PENSIONS, AND PENSION CLAIMS.

*By far the greater proportion of "OPINIONS" sought from Attorneys General in relation to the pensions and pension claims of widows and orphans, appertain to those connected with the naval service; the few appertaining to the military service alone, or which apply, in common, to those connected with either the military or naval service, are marked with asterisks thus [*]*

The widows and orphans of officers of the navy and of marines, also the widows and children of seamen and marines, who, between the 18th June, 1812, and 22d January, 1825, *perished* on board of a public armed vessel of the United States, or who were *lost* on board of prize vessels to which they had been transferred, or were *drowned* by the up-

WIDOWS' AND ORPHANS' PENSIONS (*Continued.*)

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- setting of a boat dispatched on duty from a public armed vessel, are entitled to pension according to the acts referred to, to be paid out of the navy pension fund. The same opinion as to the claims of widows and orphans of officers and seamen, who, between the same periods, *perished* on board of private armed vessels of the United States, or who were *lost* on board of prize vessels to which they had been transferred, or were *drowned* by the upsetting of a boat dispatched on duty from a private armed vessel, to be paid out of the privateer pension fund—Opinion 31st March, 1825..... 347 22
- The widow of an officer or seaman, &c., serving on board of a private armed vessel, who shall have died of wounds received in the line of his duty, shall be entitled to a pension for the term of five years, at the rate of half the monthly pay which the rank of the deceased entitled him to; and if such widow should not have claimed or received such pension for the term of the first five years, or for any number of continuations of such periods of five years, she shall be entitled to receive the arrearages for each term of five years, only to cease at her death or intermarriage, but to enure to herself and husband *after* her intermarriage, or to her legal representatives *after* her death—Opinion 9th June, 1825.. 354 23
- The opinion expressed, [22], ante, in favor of the pension claims of widows and orphans of officers of the navy and of officers of marines, and also of widows and orphans of seamen and marines, is modified by the following opinion, so as to embrace, 1st, widows and orphans of officers, seamen, and marines, who, *since* the 18th June, 1812, had been killed in battle: 2d, widows and orphans of officers, seamen, and marines, who, *since* the same period, had died by reason of wounds received in the line of their duty: 3d, widows and orphans of officers, seamen, and marines, who, *since* the same period, had died in consequence of *disease* contracted, or of *casualties* or *injuries* received while in the line of their duty—Opinion 6th September, 1830..... 358 27
- The act of 28th June, 1832, extending pensions granted to widows and children under former acts, to widows only, is meant to exclude the children, but not to change the policy of the former acts—Opinion 4th January, 1833..... 375 38
- Revolutionary pensions under act of 7th June, 1832. The legal representatives of a widow who died without demanding the arrear of pension due to her deceased husband, are entitled, exclusive of the orphan children. If no widow, the surviving children and the representatives of any deceased children, are entitled to the distributive share of such children, respectively. If the deceased pensioner leave no widow or children, his legal representatives are entitled to the arrear—Opinion 28th February, 1834..... 378 42
- Although the act of 30th June, 1834, provides pensions for widows of officers, seamen, &c., who have died in the naval service since the 1st of January, 1824, by reason of disease contracted, or of casualty by drowning, or other injuries received while in the line of their duty: the death of such officers, &c., from such causes, previous to January, 1824, cannot entitle their widows to pensions—Opinion 17th October, 1834..... 380 44
- The act of the 3d March, 1817, entitled the widow of an officer, seaman, or marine, to receive half the monthly pay that her deceased husband was entitled to at his death; and although the act of the 3d March, 1835, regulating the pay of the navy of the United States, actually increased their pay without any reference to its operation on pensions, yet the pensions must be estimated according to the rates of pay proper, exclusive of perquisites—Opinion 20th July, 1835..... 382 46
- Present opinion is relinquished and withdrawn in deference to previous opinion, and usage of the department, viz: That a pension shall be allowed as a vested right, when one has lost his life while in the line of his duty on board a private armed vessel of the United States. That in case the deceased leave a widow, who intermarries or dies without hav-

WIDOWS' AND ORPHANS' PENSIONS (*Continued.*)

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- ing claimed her right to a pension, her second husband or legal representatives are entitled to the amount accruing from the death of her deceased husband till her second marriage—Opinion 5th April, 1836. 394 49
- The following opinion adopts that of Mr. Wirt, of the 9th June, 1825, in relation to widows of officers and seamen of the privateer service, and applies it, with scarcely a variation, to widows of officers, seamen, &c., of the navy; consequently, the abstract of the former, [23] p. 354, will equally apply to this—Opinion 5th April, 1836. 396 50
- If the widow otherwise entitled under the 1st section of the act of 4th July, 1836, married before the passage of the said act, the orphans, in her stead, are entitled to the benefit of the act—Opinion 3d August, 1836 401 53
 - Pensions granted by the 1st section of the act of 4th July, 1836, to widows and orphans of military officers, &c., are to commence from the death of the party serving, in all cases where the death has occurred anterior to the date of the act; and the same section embraces widows and orphans whose husbands and fathers may *thereafter* die in the service—Opinion 24th October, 1836. 404 55
- If an officer, seaman, or marine, (a purser being considered an officer in the navy,) has died before the passage of the act of the 3d March, 1837, and left a widow, who was living at the time the act was passed, she would be entitled to a pension under that act, if she did not marry again before the passage of the act, as such marriage estops her coming within the benefit of the act; but if she did so marry, and the decedent left children (living at the date of the act) they would be entitled, from the death of the father, till 21 years of age—Opinion 7th April, 1837. 404 56
- A navy agent is not "an officer, seaman, or marine," in the sense of the act of 30th June, 1834, concerning "naval pensions and the navy pension fund;" therefore his widow is not entitled to a pension under that act—Opinion 7th April, 1837. 405 57
- The last clause of the opinion, [56] ante, given three days before the following, anticipated in the affirmative the answer here given in relation to the title of the children of the deceased, again propounded by the Navy Department—Opinion 10th April, 1837. 405 58
- If an officer, seaman, or marine, has died before the passage of the act of the 3d March, 1837, and left a widow who has also died before the passage of said act, her representatives are estopped by her death from coming within the benefit of the act for the previous term of her widowhood—being co-ordinate with the disqualification of previous remarriage; but if the decedent left children (living at the date of the act), they would be entitled from the death of their father, till 21 years of age, according to opinion [56]—Opinion 11th April, 1837. 406 59
- See opinions [56,] [59,] for the principles reiterated here—Opinion 11th April, 1837. 406 60
- See opinions [56,] [59,] for the principles reiterated here—Opinion 11th April, 1837. 407 61
- See opinions [56,] [59,] for the principles reiterated here—Opinion 11th April, 1837. 407 62
- A specific pension granted to an individual, (case of Mrs. Decatur,) counteracts the claim of the same individual to a pension under the general provisions of an act passed on the same day, unless an election is made by the claimant to take the one and relinquish the other—Opinion 11th April, 1837. 408 63
- See opinions [56,] [59,] for the principles reiterated here. But grandchildren are excluded—Opinion 12th April, 1837. 408 64
- If a soldier dies after the 4th of March, 1831, and before the 7th June, 1832, and leaves a widow who dies before the 7th June, 1832, the children of the widow, if not children of the deceased soldier, are *not* entitled to a pension, (but if children of the soldier, they *are* entitled)—Opinion 13th April, 1837. 409 65

WIDOWS' AND ORPHANS' PENSIONS (*Continued.*)

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- Under the 3d section of the act of the 4th July, 1836, the widows and orphans of officers and soldiers who had died of wounds received in the military service, or may, after the passage of the said act, die in consequence of such wounds, are entitled to the pension provided by that act. The same is extended to the widows of officers who *were* living when the act of 7th June, 1832, was passed. The children of a widow who was living on the 4th July, 1836, and was entitled to the benefit of the 3d section of the act of that date, can draw the amount due up to the date of her death, although she failed to apply. In all cases where the husband was in receipt of a pension under any of the revolutionary pension acts, until the time of his death, the pension of the widow, under the act of the 4th July, 1836, can only commence from the date of her husband's death—Opinion 13th April, 1837..... 409 66
- The widow of any person borne on the ship's books as one of the crew, and is amenable to martial law, being therefore a seaman, is entitled to a pension—Opinion 18th November, 1837..... 412 68
- By the acts of July 20, 1813, and March 4, 1814, but not by that of 3d March, 1837, the widow of a person who has died of *wounds* received in the line of his duty in the service, though the death should have occurred after he had left the service, is entitled to a pension—Opinion 6th April, 1838..... 413 70
- The act of July 7, 1838, was intended to provide pensions for widows who were not embraced in the 3d section of the act of July 4, 1836, or other prior laws—Opinion 24th August, 1838..... 413 71
- Widows whose husbands served in the revolutionary war, having married again before the passage of the act of the 7th July, 1838, are excluded from its benefits, upon the same principle that the pensions of those widows who marry after the passage of the act are discontinued on the event of their second marriage—Opinion 18th September, 1838 415 74
- A paymaster being a commissioned officer in the military service, his widow is entitled to a pension under the provision of the 15th section of the act of 16th March, 1832, (see "Paymaster"—Opinion 22d March, 1839..... 416 75
- The arrear of pension granted to officers, seamen, and marines, by the act of 3d March, 1837, though the decedent had received no part of it, must be paid to his widow or his legal representatives—Opinion 23d March, 1839..... 416 77
- The widow of a deceased officer temporarily employed in a *higher grade*, without commission in that grade, though with a reasonable expectation, amounting even to moral certainty, of receiving promotion to such grade, is only entitled to a pension from the time of his death at the grade of his actual commission—Opinion 27th April, 1839..... 417 77
- The widow of a deceased officer of the navy, who had previously enjoyed a like commission, but by its resignation had become a private citizen, in the interval, cannot claim a pension at the rate of the pay he might have enjoyed under a continuous commission, but only at the rate computable from the commission he held at his death—Opinion 1st June, 1839..... 418 78
- Revolutionary pensions of the act of 7th June, 1832, *modified, restricted, and extended*..... 418 97
- If the widow of a revolutionary pensioner is directed by law (the act of 3d March, 1839) to be placed on the pension roll at the same rate that her husband received before the passage of said law or order, and it turns out that she died before the passage of such law in her behalf, but leaving children, then the children are entitled to the arrear, under the provision of the act of 2d March, 1829; and the share of an absent child or children shall be reserved for them, but if no children, then the arrear to go to the legal representatives of the deceased pensioner—Opinion 25th May, 1840..... 422 81
- The widows of officers who were dead at the passage of the act of 7th June, 1832, but who, if alive, would have received pensions under it,

WIDOWS' AND ORPHANS' PENSIONS (*Continued.*)

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- are not entitled to the benefit of the act of 7th July, 1838. "Mr. Butler's opinion on the same subject commented on—its correctness doubted"—Opinion 31st May, 1842..... 424 83
- In consequence of the Executive construction given to the laws of 17th July, 1838, (as above,) Congress has declared by resolution, that it embraces the cases of widows whose husbands were alive in 1832. "Widows take for five years, beginning in 1836, and are to be paid, according to the letter of the law, from that time"—Opinion 3d September, 1842..... 426 86
- Widows or legal representatives of navy invalids, are entitled to the pensions previously allowed by the department to such invalids before their death, but received in their life time, such allowance having thus assumed the form of a debt due to the deceased—Opinion 28th August, 1843..... 427 87
- Widows of quartermasters of the marine corps, are, in the opinion of the Attorney General, entitled to pension; but, under an adverse report of a committee of the Senate, he recommends non-action of the office until a legislative interpretation shall be given to the laws—Opinion 10th November, 1843..... 429 88
- The second section of the act of the 23d of August, 1812, repeals the 1st section of the act of March 3, 1837, making certain provisions for widows and orphans, and no allowances can now be made under it. It was continued in force temporarily by the act of August 16, 1841, in regard to certain cases; but was revoked by the act of 1842, leaving no remedy for those cases except in an application to Congress—Opinion 15th April, 1844..... 431 89
- The child of a passed midshipman is entitled under the acts of 30th June, 1834, and 15th June, 1844, only to the remainder of the five years' pension not received by the widow during her lifetime—Opinion 4th January, 1845..... 431 90
- The pension extended to widows, &c., by the act of the 3d March, 1845, commence from the period of their cessation under the former acts of 1834, 1837, and 1841, respectively—Opinion 19th March, 1845..... 432 91
- The act of March 3, 1845, extends a pension for five years to those widows who received pensions under former acts in consequence of the death of their husbands having been occasioned by wounds received, or by accident, or by disease contracted, whilst acting in the line of their duty as officers, seamen, or marines. The act of 1837 was a renewal of pensions previously granted to widows entitled under the act of 1834, within the meaning of the act of March 3, 1845. The fact of their being placed on the pension roll by virtue of the more comprehensive terms of the act of 1837, does not affect their rights under the act of March 3, 1845. The terms of the act are fully satisfied by extending its provisions to cases which were within the act of 1834, although the pensions were granted for an indefinite period; and this, whether the pensions were granted by the Commissioner of Pensions under the act of 1834 or that of 1837, provided the pensions granted were authorized by the act of 1834—Opinion 14th April, 1845..... 433 92
- There is no authority for making payment of the arrears of pensions due widows of revolutionary officers at their death, who have left no children, to executors or administrators. Even where widows have died leaving children, the arrears cannot be received by executors and administrators as assets for the payment of the decedents' debts—Opinion 14th July, 1846..... 436 94
- The 2d section of the act of May 7, 1846, was intended to facilitate applications of widows to pensions founded on their marital relations, by operating on the proof required. To establish their claims it is sufficient for widows to prove that their husbands were entitled to pensions, and that they are the widows of such pensioners. The fact that the husbands were upon the roll and drew pensions, is presumptive evidence that they were entitled to them; yet, if they were not, that fact may be

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- proved. The *onus*, however, is upon the government to show that they were not entitled. General reputation and cohabitation are, in general, sufficient evidence of marriage; but as this is only presumptive, it may be rebutted by countervailing testimony. The law should be construed liberally and favorably towards applicants"—Opinion 23d June, 1846. 437 95
- The act of 3d March, 1845, authorizes the renewal of pensions to such widows of officers, seamen, and marines, only as had enjoyed a five years' pension under previous laws, and which had ceased in consequence of the expiration of the period for which the same had been granted or renewed. Widows who had not been such for five years, or who had not exhausted their five years' pension under former laws, are not provided for. The applicants in this case not having been widows for the period of five years, and not having exhausted their pensions under former laws, are therefore not entitled to the benefit of the act of 3d March, 1845, but are left to the generosity and justice of Congress in the premises—Opinion 23d January, 1847. 441 97
- The acts of Congress granting pensions to widows of officers, seamen, and marines, who have died whilst in the service, or from disease contracted or injuries received whilst in the line of their duty, do not include cases of widows of engineers in the navy appointed pursuant to the act of 1842. There being no law authorizing the allowance of pensions to such widows, it follows that there is none prescribing the rate at which they shall be paid. Pensions to widows of officers, seamen, and marines, when allowable, commence from the date of the passage of the act (1834) in cases where the death of the husband occurred prior to that date, and from the death of the husband in all other cases—Opinion 14th October, 1847. 447 100
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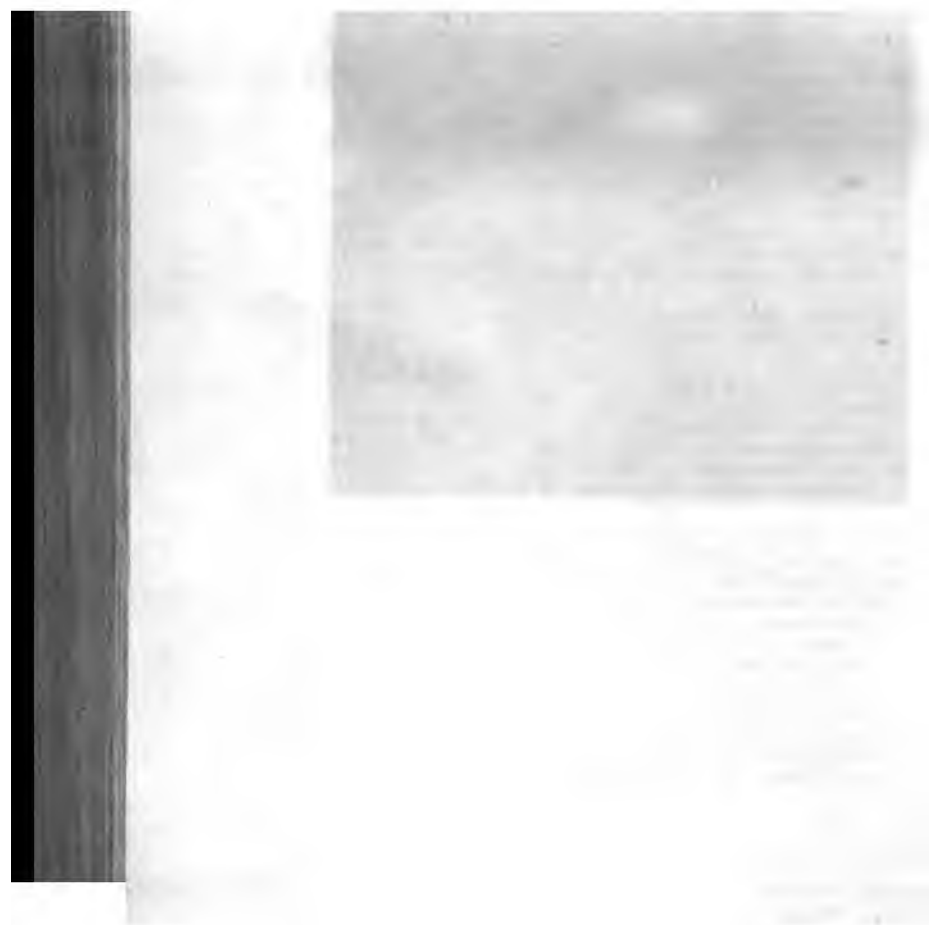
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After the explanations prefixed to this Index were in type, we concluded to modify the arrangement by separating the Index of Opinions of Attorneys General from the Index of Decisions and Forms, that the Laws, Opinions, and Decisions, may be consulted separately. It now stands distributed in three parts, thus:

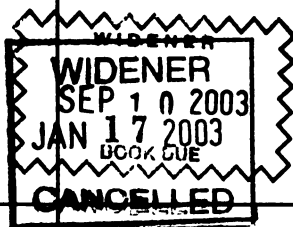
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